THE LANDLORD AND TENANT ACT, 1927 - - - p. 24.
LEGITIMATE AVOIDANCE OF SUPER-TAX ON BOUNTY p. 25.

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Current Topics.

Hilary Term.

THE HILARY Law Sittings commenced on Wednesday last under somewhat unusual conditions. They are, of course, the longest of any of the four Sittings into which the legal year is divided, covering sixty-one days—about one-third of the judges' working period of the statutory year, which, in 1928 will be 182 days in all. In the Court of Appeal there is a list of eighty cases to be disposed of, being an increase of eight over the corresponding number for this term last year, and of twenty-four for 1926. Having regard to the fact that nearly all these cases were set down towards the close of the year which has just ended, the position so far as those tribunals are concerned cannot be regarded as unsatisfactory. There are, however, 329 cases awaiting disposal in the Chancery Division, in addition to fifty-seven company matters, but when we come to the King's Bench List the position is somewhat serious. The New Year commenced with 866 causes awaiting trial, some of which were set down over six months ago. The Winter Circuits have already commenced, and with the consequent absence of so many judges from town the congestion must continue unless the House of Commons makes up its mind to pass the necessary resolution promptly to appoint two more judges and thereby avoid grave inconvenience to litigants. The suggested rejection of that resolution on the ground of economy should not be taken seriously, particularly in view of the statement made by the Lord Chief Justice that the amount to be received in fees would more than cover the salaries of the two additional judges.

The High Tide in London.

IT IS perhaps premature to make any legal apportionment of the blame, so far as blame there may be, for the fatalities and damage caused by the recent abnormal tide up the Thames. Probably it will be fully considered in the courts, as well as under a proposed public enquiry, for it seems extremely unlikely that the issue whether the tide was an "act of God" within a policy of assurance or otherwise will not give rise to some civil action. At present, however, the matter is only before the coroners and their juries holding inquest on the victims, and, so far as legal effect is concerned, their pronouncements must be "obiter." It is hardly conceivable that there can be any question of criminal responsibility either for the weakness or inadequate height of any embankment. Civil responsibility is just possible, but an attempt to fix it would at present appear a bold enterprise. If proceedings ensue, *Nichols* v. *Marsland*, 1876, 2 Ex. D. 1, will no doubt be discussed, and *Nitro-Phosphate, &c., Co.* v. *London & St. Katharine's Dock Co.*, 1878, 9 C.D. 503. The last case concerned the tide which, at 2.30 a.m. on 15th November, 1875, rose to a height of 4 feet 6 inches above Trinity high-water mark at London Bridge, and it would be interesting to know the difference between that and the recent one. In each case the damage was held due to an "act of God," but in the latter the defendants were, and in the former they were not, held liable. In the *Dock Case*, a very high tide a year or two before, within three inches of that in question, had given the defendants some warning. A record of high tides between 1868 and 1879 will be found on p. 509. As to the responsibilities of public bodies, only the most general observations can be made. By Sched. V of the Port of London Act, 1908, the jurisdiction of the authority thereby constituted extends from the boundary line of Teddington and Twickenham parishes on the river, to a line drawn between Havengore Creek, Essex, and Warden Point, Sheppey. Thus all the damage arose from floods within such jurisdiction, but, of course, it does not in the least follow that they were responsible, and primarily the Authority is concerned with navigation and dock facilities. Another statutory body, the Thames Conservators, might or might not be responsible for flooding from above, for they have control of weirs, but they have no apparatus to control the flow of the tides, which does not obey statute. Questions as to the strength or height of embankment may be reserved for future consideration.

Judges and Public Service.

ENGLISH JUDGES and ex-judges have long been noted for their readiness to undertake duties beyond those which come strictly within their province. Time and again they have consented to act as chairmen of important public enquiries, a task in which they have invariably acquitted themselves with that impartiality and dignity that might be expected from them. Another department of public usefulness in which they have frequently given their services willingly and without material reward is in the work of quarter sessions. Sir EDWARD FRY, after he retired from the Court of Appeal, devoted much of his untiring energy to various phases of public work, including that of the chairmanship of Somerset Quarter Sessions. Similarly, the late Lord COLERIDGE occupied the same position in his own county of Devon; and now Lord Justice GREER has accepted the position of Deputy-Chairman of the East Sussex Quarter Sessions, where his high judicial qualities will be at the service of the community. The public, we feel sure, have little conception

of the amount of work which our judges—who are popularly, but mistakenly, supposed to draw high salaries for the performance of duties, spectacular but not unduly heavy—undertake gratuitously and carry out so efficiently.

Prisons Report for 1926.

In both the Prisons Commissioners' Report for 1926 (Cmd. 3,003) and the Home Secretary's statement thereon, attention is drawn to the need of a new Borstal Institution. According to the report, "The numbers at Feltham, Borstal and Portland are so large that it is very difficult for the Governor and housemasters to maintain the personal touch with each lad which is essential to Borstal training. In addition, there is difficulty in finding suitable occupation for all the lads, particularly at Feltham. We mentioned in our last report that a new Borstal Institution was needed. This need has now become acute. A large part of the success of the Borstal system has been due to the individual attention given to the lads by the heads of the institutions, to the corporate spirit created in each institution, and to the arrangements for active and interesting employment. All these methods become less effective if the numbers are too large." The Home Secretary is even more emphatic. He declares "he must have a new 'Borstal' with new ideas, new ideals, new work, and new hopes." The demand appears eminently reasonable; an experiment which has begun to prove itself a success cannot fairly be conducted in unfavourable surroundings.

Refusal to Answer a Question: Magistrate's Powers.

In the case now before the Liverpool magistrate where bribery of police constables is alleged, the superintendent of police, under examination in the witness box, refused to answer a question put to him in cross-examination, and the magistrate is reported to have said that he was advised he had no power to compel the witness to answer. The case is *sub judice*, and we will therefore leave it to counsel to argue whether the question be relevant or not, and so one proper for compulsion to be applied. We would, however, remind our readers that courts of summary jurisdiction are not without power to compel witnesses to answer proper questions. Section 16 of the Indictable Offences Act, 1848, and s. 7 of the Summary Jurisdiction Act, 1848, each provides for a committal of the recalcitrant witness to gaol for seven days, unless in the meantime he consents to answer. Metropolitan magistrates have under s. 22 of the Metropolitan Police Courts Act, 1839, power to commit for fourteen days or until submission.

The "Owner" of a Dangerous Structure.

When a district surveyor, under the London Building Acts, finds a dangerous structure and certifies it as such, the London County Council, under s. 106 of the London Building Act, 1894, can serve notice on the owner or occupier of the structure to take down, secure or repair the same. If nothing is done by the owner or occupier, the latter disappears from the picture, and the council can, by s. 107, take the owner before a police court for an order to be made upon him to comply with the council's requirements. By s. 5 of the London Building Act (1894) Amendment Act, 1898, it is sufficient if the owner be described in the summons and order as "the owner," "without further name or description," except the name of the premises, though if the owner is known to the council, a copy of the notice, the summons and the order, has to be sent to him by registered post. These provisions are designed to avoid lengthy litigation of questions of title and liability where urgency is the essence of the matter, but they work out a little awkwardly for those who wish to object to the making of an order, without any admission of ownership and consequent liability. "Owner" is given a very wide definition by s. 5 (29) of the London Building Act, 1894, and there may be several persons coming within the definition, all equally unwilling to act in the matter. Counsel appearing for any one of them is in a dilemma. If he is to have a right of audience he must claim it as appearing for the owner. If he does not admit that he appears for an owner, he cannot be heard. A good deal of shyness is exhibited by counsel on such occasions—more really than is necessary. He need only say, "my client is an owner within the definition and he desires to contest the making of this order, without prejudice to his rights in relation to others who are also owners within the definition." The court is always prepared to make the order, in the indeterminate form, against "the owner," which leaves questions between the various parties open and unprejudiced for subsequent litigation.

Poor Men's Courts.

Mr. Cecil Chapman, in his reminiscences, dubbed the police court "The Poor Man's Court of Justice." Sir Edward Parry, writing in the *Manchester Guardian*, pleads that the county court should be able to claim a share in that honourable title. Until recently, says Sir Edward, it was recognised that the county court should be mainly supported by the State, but now it looks as if the authorities would like it to be self-supporting and perhaps profit-making. He deprecates high fees and costly litigation. High court litigation is now so costly as to be ruinous to all except the rich. The county court is increasingly the resort of business men as well as of the poorer litigant, and its jurisdiction has been extended. It has now the widest jurisdiction of any civil court in the country, and often tries highly important issues. Sir Edward's conclusion is that the future of the county court should be the subject of a public inquiry, that all civil courts of justice should be co-ordinated, and that a Ministry of Justice should be answerable to the public for defaults and delays. This question of costly litigation is constantly being ventilated. Much of the trouble is due to the insistence of the lay client upon engaging the services of the most fashionable counsel who command high fees. But that is not all. One of the advantages of the county court is that it brings justice near to men's own doors. It is comparatively expeditious. Capable counsel and solicitors can be employed at moderate cost. Much the same could be said of the police court. Recent legislation has cast upon it, as upon the county court, new burdens and responsibilities. In many districts the work is done by an unpaid magistracy; in London and some other populous places most of the work is done by paid magistrates who are members of the Bar. The importance and variety of the work done by county court judges and by Metropolitan and stipendiary magistrates, who alike enjoy the complete confidence of litigants and the general public, would seem to justify an improvement in status and salary. Recognition of this kind would in its turn attract members of the legal profession to practise in courts which at present are sometimes, quite wrongly, we think, held in something approaching contempt by those who have little acquaintance with them. And why should not more county court judges, and some magistrates, after proof of suitability, be promoted to the High Court bench?

Fit and Proper Moneylenders.

Evidently there have been hundreds, and possibly thousands, of certificates granted by courts of summary jurisdiction to moneylenders under the new Act. Very few, we gather, have been refused. The statute gives the bench a discretion to refuse on the grounds, *inter alia*, that there is no satisfactory evidence of good character, or that the applicant is not a fit and proper person. Generally, the police have raised no objections to the applicants, and magistrates seem to have hesitated to hold that illiterate persons, or persons lending at interest of 2s. 6d. in the £ for a week, were not fit and proper persons. Evidence of good character has often been that of a friend or neighbour, called to assure the bench that the moneylender, in many instances a woman living in a back street, is "a nice, respectable woman." Of course, she is. Those against whom the Act was devised are not persons

of bad character. It is the character of their business that is so frequently bad. Those who object to moneylenders in general are thinking of exorbitant rates of interest, oppressive methods, and even blackmail, often leading to domestic unhappiness, and sometimes to crime. The undiscerning public is itself occasionally to blame, especially because of its hazy ideas of the arithmetic of interest. We know of at least one old gentleman, of good social standing and wide experience, who stoutly defends the cause of the usurer. "Five per cent. a week!" he says, "Five per cent.'s five per cent. all the world over,——it! It makes no difference whether it's for a week or a year!" Perhaps borrowers, realising the protection afforded by the new Act, will be a little bolder to resist pressure from unscrupulous lenders; perhaps lenders will be a little more timid in view of the restrictions and penalties of the new Act, and confine themselves to reasonable and legitimate transactions. "The chief loop-hole that remains to the moneylender," says *The Spectator*, "is his freedom to advertise in newspapers. Most reputable papers, of course, refuse such advertisements, but all newspapers which have characters to lose ought to keep an unbroken front against the moneylender."

What Should Lawyers Read?

Readers of Sir Walter Scott's "Guy Mannering"—and it is to be hoped that they are still a goodly company despite the severity of competition that the Waverley novels experience in these days when the flood of fiction threatens to engulf all other literature—will recall the astonishment and delight of Colonel Mannering when, ushered into the library of Counsellor Pleydell, he sees its shelves laden with volumes by the best authors, and, in particular, with an admirable collection of the classics. Pointing to these volumes, Pleydell, who was one of the leaders of the Scots Bar, said: "These are my tools of trade. A lawyer without history or literature is a mechanic, a mere working mason; if he possesses some knowledge of these, he may venture to call himself an architect." These wise words, which may be taken as embodying the considered opinion of Scott himself, who, like Pleydell, was a distinguished member of the Scots Bar, although it was by his writings rather than by the art of the advocate that he shed a lustre on the northern Bar, are often forgotten, and with many a lawyer his reading is limited to purely professional treatises. The position would seem to be much the same in the United States. According to a writer in the current number of the *Harvard Law Review*, one of the weaknesses of much of the college education in that country is the failure to develop a desire for reading books in fields outside the prescribed courses. A law school, it is suggested, ought to prepare a list of recommended books, both interesting and important, which should be read by the law student. In default of such a list, the writer has offered one of his own, which includes works on politics, psychology, biography, Lord Acton's "Lectures on the French Revolution," Green's "Short History of the English People," and all admirers of Dickens will be glad to see that included in the recommended books are also "Pickwick Papers," and "Bleak House," both of which throw an interesting light on the law and lawyers. Not every one would make precisely the same choice, but it is an interesting one in itself, and, if accepted, and the various volumes studied, the law student, and even the practising lawyer, would feel himself more adequately equipped for the work that confronts him. In the words of Pleydell, he would not then be "a mere working mason; . . . he may venture to call himself an architect."

A Novelty in Divorce Evidence.

The respondent in a recent divorce case on circuit had apparently read of the doubts sometimes cast upon the evidence of hotel registers and chambermaids. For some reason not divulged, he had taken the precaution of being photographed in bed with a lady not the petitioner. The photograph was perfectly decorous, and was handed to the petitioner to identify the respondent, and then to the judge, who received it as evidence without adverse comment. The reception clerk was also called, and the hotel register was produced, showing the respondent's signature on behalf of himself and his "wife." A decree *nisi* was duly pronounced. The question arises, however, as to whether evidence of this nature may not defeat its own object by being too good. The private inquiry agent is already met with who has the courage to intrude upon the guilty party and friend, and so identify them either in bed or in the act of dressing. He rarely stops long enough to take a photograph, however, and if he were to obtain permission to do so questions of collusion might arise if the practice became common. If, on the other hand, the guilty party employs a photographer, the same question would arise as at present—whether a matrimonial offence has been committed. Posing for a photograph in bed with one of the opposite sex can be accomplished at a studio, for example. It would not do away with the need to call a hotel servant or landlady of rooms, and he or she might be unable to identify either the pattern of the wallpaper or the bedstead. Discredit would therefore be cast upon the whole of the evidence. The conclusion, therefore, is that the advantages of the new departure are not commensurate with the expense.

Trustees and Income Tax.

In the ordinary case a trustee should have little trouble in respect of the income tax chargeable on his beneficiaries on the income of funds in his name. So far as they are English securities, the tax, save in such exceptions as that of War Loan, will be deducted at the source. Under his general authority to the companies and other bodies in which the trust funds are invested, the beneficiaries will ordinarily receive their dividends with the counterfoils direct, and, if they are entitled to rebate, will make their own arrangements for obtaining it. A trustee's general duty to give information as to the income he pays or authorises to be paid to a beneficiary not "incapacitated" within the Income Tax Act, 1918, s. 237, or resident abroad, is contained in s. 103 of the Act. Generally, he has the duty of giving information if required, but having done so, need do no more, unless actually required to testify in respect of such information under s. 144. In *Williams* v. *Singer*, 1921, 1 A.C. 63, a case where trustees domiciled in the United Kingdom authorised a beneficiary resident abroad to receive dividends direct from a foreign company in which some of the trust funds were invested, the Crown virtually claimed that the Revenue authorities were entitled to look to the trustees for the tax, but Lord Cave, quoting s. 42 of the Act of 1842, which corresponded to s. 103, *supra*, stated that such a proposition could not be maintained (p. 71), and pointed out the absurdities which might result if trustees were taxable on their beneficiaries' income. The immunity given by s. 103, however, is conditional on the information sought by the authorities being given when required. It would thus appear that if a trustee is not so approached he may allow a beneficiary *sui juris* and within the jurisdiction to receive War Loan interest untaxed, or even forward the warrant for it to such beneficiary. In respect of non-residents and persons incapacitated within the Acts, however, he is chargeable under s. 101 and General Rules 4, 5 and 13, and may indemnify himself under r. 14. Trustees who pay annuities usually do so out of funds taxed at the source, but, save under express direction under a will, they must deduct tax: see General Rule 23. If tax is deducted at the source, the deduction of tax by the trustees will be adjustment between annuitant and residue. In *Re Pettit*, 1922, 2 Ch. 765, it was even held that residue was entitled to a proportion of the relief in taxation obtained by the annuitants. Perhaps it may be regarded as an odd freak of our legislation that in the face of the Sex Disqualification (Removal) Act, 1919, a married woman remains "an incapacitated person" within the Act passed the previous year.

The Landlord and Tenant Act, 1927

(COMMUNICATED.)

THE Landlord and Tenant Bill, in the form in which it was originally introduced, was examined in articles published in THE SOLICITORS' JOURNAL, on the 9th and 16th April, 1927. In its passage through the House of Commons the Bill was materially altered; and in the House of Lords further amendments of the first importance were made. The result is that it has been so extensively altered, and the rights proposed to be conferred have been so qualified, that the Bill as it passed into an Act might almost be regarded as a new measure. Its main scheme, however, has been retained, although the benefits which tenants would have gained from it if passed in its original shape have been reduced.

Part I, the seventeen sections of which comprise the main part of the Bill, relates to compensation for improvements and goodwill on the termination of tenancies of business premises. By s. 1 (1), a tenant of a holding to which Pt. I applies is entitled (subject to the provisions of the Act)—if he makes a claim in the prescribed manner and within the time preceding the termination of the tenancy mentioned in the section—to be paid by his landlord "at the termination of the tenancy, on quitting his holding," compensation in respect of any improvement (including the erection of any building) on his holding made by him or his predecessors in title (not being a fixture which the tenant is entitled to remove), which, at the termination of the tenancy adds to the letting value. This right is subject to a proviso limiting the amount payable as compensation, which is not to exceed (*a*) the net addition to the value of the holding as a whole which may be determined to be the direct result of the improvement, or (*b*) the reasonable cost of carrying out the improvement at the termination of the tenancy, subject to a deduction if the improvement is out of repair as in the Act mentioned.

Sub-sections (2) and (3) provide for the event of an improvement being of little or no value at the end of the term, in consequence of a change in the purposes for which the premises are intended to be used; the buildings may be about to be pulled down, or structural alterations made. In any such case, the Act requires that in estimating the compensation regard must be had to the alterations intended to be made. Disputes have to be determined by "the Tribunal," defined later, and if it decides that on account of the intention to demolish, or alter, or to change the user of the premises, a reduced, or no compensation is to be paid, the Tribunal may authorise a further application for compensation to be made by the tenant if effect is not given to the intention within a fixed time.

Section 2 (1) prevents compensation being claimed in respect of (*a*) an improvement made before the commencement of the Act (i.e., the 25th March, 1928), (*b*) an improvement made in persuance of a statutory or contractual obligation, (*c*) an improvement made less than three years before the termination of the tenancy. The right to compensation is also excluded if within two months after a claim made under s. 1 (1) the landlord serves the tenant with notice of his willingness to grant a renewal of the tenancy "at such rent and for such term as, failing agreement, the Tribunal may consider reasonable." Where such a notice is served and the tenant does not within one month send notice of acceptance, the offer is to be deemed to have been declined. In determining the compensation the Tribunal must take into account (s. 2 (3)) any benefits received by the tenant or his predecessors in title from the landlord in consideration expressly or impliedly of the improvement.

In order that a tenant may be in a position to claim compensation for an improvement, he is required by s. 3 to give notice (with a specification and plan) of his intention to make the same, and the landlord is at liberty, within three months after such service, to give notice of objection; in which case, failing agreement, the matter will be brought before the Tribunal. If the proposed improvement is one which the Tribunal certifies to be proper—which the Tribunal has power to do upon the conditions mentioned in the section—the tenant may proceed to carry out the same notwithstanding the landlord's objection.

Section 4 introduces the principle—novel to our law, except so far as the right to claim compensation for disturbance under the Agricultural Holdings Act may bear some analogy to it—of allowing a tenant compensation in respect of goodwill. To entitle the tenant to such compensation—(1) he must send in a claim, in the case of a tenancy terminated by notice, within one month after such notice is served on the tenant, and in any other case not more than thirty-six, nor less than twelve months before the termination of the tenancy, (2) the tenant or his predecessors in title must have carried on the trade or business at the premises for not less than five years, and (3) it must be proved to the satisfaction of the Tribunal that by reason of the trade or business having been thus carried on a goodwill has become *attached to the premises*, in consequence of which the same could be let at a higher rent. The sum to be awarded as compensation is not to exceed the addition to the value of the holding which is the direct result of the carrying on of the trade or business; and if the premises are to be demolished (wholly or partially) or used for a different and more profitable purpose, regard is to be had to the effect of such demolition or change of user on the value of the goodwill to the landlord. In estimating the compensation any value attributable exclusively to the situation of the premises is to be disregarded.

The landlord is empowered to avoid the liability to pay compensation in respect of goodwill by offering to grant a renewed lease at such rent and for such term (not exceeding fourteen years) as, failing agreement, the Tribunal may consider reasonable. Where such an offer is made, if the tenant does not within one month send an acceptance in writing the offer will be deemed to have been declined. But if the offer is accepted, then (under s. 4 (3)) the rent fixed by the Tribunal is to be such as in the opinion of the Tribunal a willing lessee would give and a willing lessor would accept for the premises, irrespective of any goodwill which may have become attached thereto as before mentioned. In cases where the Tribunal awards compensation in respect of goodwill, it may be made a condition that the tenant shall undertake not to carry on the trade or business within a specified distance from the premises. Compensation is not to be payable in respect of goodwill if the tenant himself has determined the tenancy, or if he has failed to exercise an option for a further term, whether such option is contained in the lease or in a collateral agreement, unless the terms of the option are such that the tenant could not reasonably be expected to exercise it.

A further departure from precedent is contained in s. 5—the longest and most complicated section in the Act—under which a tenant is entitled, in lieu of accepting compensation under s. 4, to require a new lease to be granted. For this purpose the tenant must serve the landlord with notice of his claim. And if the Tribunal on being applied to considers the claim "reasonable," it may order a new lease to be granted for such period (not exceeding fourteen years) and on such terms as it considers proper, the rent to be such as a willing lessee would give and a willing lessor would accept, irrespective of any goodwill which may have become attached to the premises by the carrying on of a business by the tenant or his predecessors in title. By s. 5 (3), the grant of a new lease under the section is not to be deemed "reasonable"—(*a*) unless the tenant proves that he is a suitable tenant and would be entitled to compensation under s. 4, but that the sum which could be awarded would not compensate him for his loss in removing to other premises; *or* (*b*) if the landlord proves that the premises are required for occupation by himself or by a son or daughter over eighteen, or that he intends to pull down or remodel the premises, or that vacant possession is required to carry out a scheme of development.

(*To be continued.*)

Legitimate Avoidance of Super-Tax on Bounty.

THERE are many calls on the generosity of wealthy people, and probably a majority of them pay voluntary allowances and pensions to old servants and others. The money for this usually comes out of their taxed incomes, and the result is that, for every sovereign received by the person benefited, a sum which, in the case of very big incomes, is practically its equivalent, is also payable by the donor to the revenue. Put in another way, the proportion of bounty arriving at its destination in accordance with the wish of the person bestowing it cannot exceed 80 per cent. (out of income on which income tax only is payable), and in the case of the largest incomes, may fall to fifty.

An expenditure of £1, to give an old dependant another, may be regarded as rather a large "overhead" charge, and it may be worth considering how far it can be legitimately avoided. The method suggested is a deed of covenant or settlement of the annuity, which makes it an enforceable charge on the income of the donor. If such income arises under Sched. D, r. 19 (1), of the "General Rules," applicable to all the schedules, warrants the deduction of the annuity from the taxable income. If the income is "unearned income" within the Acts, the conclusion is not, perhaps, so easily reached, but it is drawn in "Dowell" (see 9th Ed., p. 727, note (*t*)), and s. 5 (2) of the Act of 1918 applies the principle to super-tax. In effect, the amount of the annuity, plus income tax on it, ceases to be the income of the settlor, and becomes that of the donee.

There are, of course, various provisions in the Acts to prevent avoidance of super-tax where the payer gives temporary bounty, or bounty which he can at any moment recall; see especially s. 20 of the Finance Act, 1922. The Legislature, however, does not provide that the subject shall otherwise continue to pay super-tax on income of which he has entirely and *bona fide* divested himself, possibly because such a process hits the taxpayer at least as hard, or harder than it hits the revenue. But, in the case of an old dependant, the donor may contemplate paying him an annuity in ordinary circumstances for the joint lives of himself and the object of his bounty, and, if he is content to subject himself to compulsion, making the gift of the annuity without any power of revocation, it ceases to be subject to super-tax, for it is no longer his income.

Various objections may, of course, be raised to such a course, even if the donor is content to pay while circumstances remain unaltered. The recipient of voluntary bounty cannot alienate it. If he has an annuity secured by a deed, however, he can do so, and it might be possible for him to sell it, squander the purchase money, and so reduce himself to destitution. His benefactor would then either have to leave him to starve, or pay two annuities, one, perhaps, to a moneylender. Again, the recipient might by his behaviour forfeit his right to bounty. Probably, for example, a landowner would object to continue the pension of an old gamekeeper who was convicted of poaching on his land, but, with an annuity unconditionally secured, he would have no option. Another possibility would be that the pensioner might, in his own right, acquire money or property which would at once justify the discontinuance of a voluntary allowance.

In the ordinary case, therefore, the model deed should not provide for the pension to be paid unconditionally, and the absolute right to receive it should cease in certain events. In providing for this, however, care must be exercised, for if the donor has an unconditional right to stop the pension, it is brought within s. 20 (1) (*a*) of the Finance Act, 1922, and super-tax is payable on it. It must, therefore, continue to be payable, if not to the original object of bounty, then to someone else. The obvious expedient here is a discretionary or protective trust, to arise on assignment, or attempted assignment of the pension, as in s. 33 of the T.A., 1925, and upon other specified events. The discretionary trust would normally include the original recipient, and perhaps should also include one or two charities, to make it clear that in no circumstances could the donor personally receive the annuity during the donee's lifetime.

If the parties to the deed of covenant were merely the donor and donee, objection might perhaps reasonably be taken by the revenue authorities that it was not really effective after the discretionary trust had arisen, because there was no one to enforce it. This objection could be forestalled by the appointment of a trustee of the deed, who should execute it with the recital that he accepted the office. He would then become personally responsible for its enforcement, and the donor's covenant to pay the annuity should be made with him. The annuity might then be made payable to him, with a proviso enabling the donor to pay direct to the original recipient or to the objects of the discretionary trusts, as the case might be. In the latter case it could be arranged that the donor should personally be entitled to exercise the discretion.

The events on which the discretionary trusts were to arise would require careful definition. A model may be suggested (*a*) any event upon which the annuity if payable under a protective trust under the T.A., 1895, would cease to be payable to the annuitant personally, (*b*) any event which if the grantor were paying the said annuity as a trustee for the annuitant with the provision that it was only to be payable so long as the annuitant was worthy and deserving of the bounty accorded would justify the grantor in ceasing to pay the annuity, and (*c*) the event of the annuitant (and/or his or her spouse) enjoying independently a specified income. The latter provision would necessitate a further one, requiring the annuitant and his or her spouse to make disclosure of income when asked to do so, with penalty of forfeiture of the annuity on failure. Another clause might relate to abatement *pro rata* of the annuity (so far as payable to the annuitant) if the recipient or spouse acquired an independent income below the limit named.

Ordinary income tax would, of course, have to be deducted from the annuity before payment, either by the donor or trustee, or at the source from which the donor received his income, and the covenant should therefore be to pay twenty-five shillings for every pound of actual bounty, with provision for adjustment on alteration of the tax. If, however, the pensioner's income was below the tax limit, he might be able to recover this, and it might even be possible to make provision that the net payment of annuity should allow for this.

Such a deed would call for a certain amount of conveyancing skill, but the very substantial relief to the client in the cesser of the obligation to pay super-tax on the small incomes of his pensioners would amply warrant the cost.

A Conveyancer's Diary.

Vesting of Land held in Undivided Shares.

The location, in certain circumstances, of the legal estate in land which, before 1926, was held in undivided shares vested in possession, continues to be a matter of difficulty. Suppose that by a pre-1926 settlement land was limited to A during his life "with remainder to A's children equally" and that A died before 1926, leaving, say, three children of full age surviving him. There being no words of limitation of the estate given to A's children, they were, immediately before the commencement of the L.P.A., 1925, "tenants for life of full age entitled under the same settlement in undivided shares" within L.P. (Amend.) A., 1926, Sch., introducing the new para. 4 into L.P.A., 1925, 1st Sched., Pt. IV.

But could it be said that "after the cesser of all their interests in the income of the settled land, the entirety of the

land" was *limited* "so as to devolve together" to the settlor (to whom, of course, the land would result on the death of the survivor of the children) within the same paragraph?

The question is not free from difficulty. On the one hand it may be argued that:—

(1) the land is not "limited" to any one after the death of the surviving child; it is in fact because no words of limitation have been used that the land results to the settlor;

(2) there is no express or other extension of the meaning of "limited" in the context; and

(3) even if the land is deemed to be "limited," para 4 only contemplates a case where the cesser of the undivided interests occurs simultaneously and not one after another, as in our case.

On the other hand, it may be urged that though "limited," as a rule, involves the user of express words of disposition, in the particular context it bears a meaning extended to include the resulting estate in the case given; for—

(1) a "limitation" is defined in both the L.P.A., 1925 (s. 205 (1) (xii)) and the S.L.A., 1925 (s. 117 (1) (xii)) to include a trust; and a "trust" would, it seems, include a "resulting trust": see *Re Llanover's S.E.*, 1926, Ch. 626;

(2) "settlement" bears the same meaning in the L.P.A., 1925, as it does in the S.L.A., 1925: L.P.A., 1925, s. 205 (1) (xxvi). A "settlement," for the purposes of the S.L.A., comprises an estate or interest not disposed of by a settlement and remaining in or reverting to the settlor or any person deriving title under him: S.L.A., 1925, s. 1 (4). The necessary inference in such a case is that the land is deemed to be "limited in trust for any persons by way of succession" (see *ib.*, sub-s. (1) (i));

(3) the words "cesser of *all* their interests" necessarily means the cesser of the last interest.

On the whole we are inclined to the former view, namely, that the new para. 4 does not apply in the circumstances, but that the land vested as provided in para. 1 of Pt. IV.

Appointment of Trustees in place of Public Trustee: Consent of Incumbrancers.

Any persons interested (see *Re Cliff*, 1927, 2 Ch. 94), in more than an undivided half of land which has become vested in the Public Trustee by virtue of L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (4), may, if the Public Trustee has not been requested to act, appoint trustees in his place: *ib.*, prov. (iii). The consent of "any incumbrancers of undivided shares" must, however, be obtained to the appointment.

Does this mean that the consent of *all* incumbrancers of *all* undivided shares has to be obtained? Or does it simply mean that the incumbrancers of those shares, the owners of which are making the appointment, only need consent? The provision as to consent is obviously designed to protect incumbrancers generally. In the absence, therefore, of any provision to the contrary and in view of the words used—"*any* incumbrancers"—it seems reasonable to conclude that the consent of all incumbrancers is contemplated. Though it would certainly be convenient in practice if the expression "any incumbrancers" were construed to mean any incumbrancers of the shares whose owners concur in the appointment.

Suppose the owner of one of the shares cannot be traced, and it is not known whether or not that share is incumbered. The owners of all the other shares in the land and any incumbrancers there may be of such shares desire to sell the land, and have agreed to appoint two persons trustees in place of the Public Trustee. Can they make a good title? It is clear that they can. They may appoint the trustees and rely upon the words contained in proviso (iii) of sub-para. (4), that "a purchaser shall not be concerned to see whether any such consent" (i.e., the consent of any incumbrancers) "has been given." The appointment, provided it is made by "persons interested in more than an undivided half of the land or the income thereof," operates in favour of a purchaser as a valid appointment. Though the trust for sale arising under Pt. IV is not exercisable without "the consent of any incumbrancer, being of full age, affected whose incumbrance is divested" by Pt. IV, a purchaser is not concerned to see or inquire whether any such consent has been given: Pt. IV, para. 1 (9).

But should such appointment, made, maybe, without the consent of all incumbrancers, be treated as unimpeachable for all purposes? Suppose the trustees so appointed distrain for rent due to them, claiming that the land had vested in them by virtue of proviso (iii), and this is disputed by the lessee. In such a case it would appear that the title of the trustees may be impeached if the consent of all incumbrancers has not been obtained. An application to the court under proviso (iv) seems, therefore, to be necessary to give the trustees in such a case an unimpeachable title.

An incumbrancer who has not consented under proviso (iii) may find it necessary for his protection to apply for an appointment under proviso (iv) in the meantime registering a *lis pendens* in the register of pending actions: see L.C.A., 1925, Pt. I.

Landlord and Tenant Notebook.

Waiver of Forfeiture: Continuing and Non-continuing Breaches.

Questions of forfeiture are matters of practically daily occurrence, and as there are certain pit-falls of which one should be wary, a brief discussion of the subject may not be inappropriate. As we have pointed out on previous occasions a mere breach of covenant will not entitle the lessor to forfeit, but will give rise merely to an action for damages. It is only when the breach of covenant amounts at the same time to a breach of condition, that a *prima facie* right to forfeit will accrue to the lessor; and whether a covenant amounts at the same time to a condition will depend generally on whether there is a proviso for re-entry, applicable to the particular covenant, contained in the lease or agreement.

Now covenants are of two kinds, i.e., those in respect of which the breach may be continuous, and those which can only be broken once for all, though in the latter class of covenant, repeated breaches (though not of a continuing character) might be committed. Repairing covenants and covenants to insure may be cited as instances of covenants, a breach of which would be of a continuing nature, though the majority of covenants do not bear this character. With regard to covenants restrictive of the user of the premises, as for example a covenant prohibiting the carrying on of a particular trade, it is sometimes difficult to decide whether a breach of such a covenant is or is not of a continuing character. Thus, in *Doe* v. *Woodbridge*, 1829, 9 B. & C. 376, where a tenant covenanted not to alter or convert certain rooms into bedrooms, it was held that a breach of this covenant was of a continuing nature as long as the rooms were being used in a manner prohibited by the lease. On the other hand, where a house is converted into a shop in breach of covenant, the conversion is regarded as a breach which is complete at once (cf. *ib.*, at p. 377). So again erecting a building in breach of a covenant not to erect buildings or not to erect buildings of a particular character, would not be a continuing breach (cf., *Powell* v. *Helmsley*, 1909, 2 Ch. 253).

The importance of the distinction between continuing breaches and breaches not of a continuing character rests, of course, on the fact that while in the first type of covenant the breaches thereof will not necessarily be wiped out by a subsequent act of waiver, in the second type there will be a complete waiver of the breach by any such act.

Thus, while in the case of a continuing breach of a repairing covenant, acceptance of rent subsequent to the breach will

not amount to a waiver, if the non-repair continues subsequently to the date of such acceptance, in the case of non-continuing breach, as for example, against sub-letting, acceptance of rent, with knowledge of the wrongful sub-letting, will amount to a complete waiver of the breach, and at the same time virtually to a licence to sub-let for the period for which the premises have to the knowledge of the lessor been sub-let. For it should be carefully noted that with every fresh sub-letting in such a case a fresh breach will be committed, and that in the case of a periodic tenancy a fresh breach will be committed at the end of every period after which the sub-lessee is allowed to remain in possession.

It will be observed, therefore, that the distinction between a continuing and a non-continuing breach is somewhat fine, but the test would appear to be whether or not the lessee who has broken his covenant still has it in his power to remedy the state of things thus created. If he has the power the breach will be of a continuing nature, but if he has not the breach will be at once complete.

Our County Court Letter.

LEGAL LIABILITY FOR FALLING TREES.

A TYPE of motor accident which is now finding its way into the news columns is that in which damage is caused by falling trees. Negligence must be proved against the landowner in order to render him liable, i.e., it must be shown that he knew the tree was dangerous, and that he took no adequate precautions to secure the safety of the public. In *Noble* v. *Harrison*, 1926, 2 K.B. 332; 70 S.J. 691, a landowner had been ordered to pay damages under the following circumstances. On his estate was a beech tree, at least eighty years old, and one of its branches overhung the public road. The branch was thirty feet above the ground, and grew out twenty to twenty-five feet over the road. Without warning, and in fine weather, part of this branch snapped off, and several feet of it fell upon and damaged a motor coach which was passing at the time. The evidence showed that the landowner and his servants were all unaware of the danger, and that the branch had snapped off by reason of a latent defect, which would not have been revealed even on inspection. The claim for negligence therefore failed, but there was a second claim on the ground of "nuisance." The county court judge at Brighton decided that the branch, being so high above the road, was not an interference or menace to road users while in its normal condition and safe from falling. He held, however, that as the branch had become defective through the penetration of water into a crack, it was a menace or danger, and (in law) a nuisance. The landowner was also held to be liable on the principle of *Rylands* v. *Fletcher*, for having accumulated on his land something which, when it escaped, had caused damage, whatever precautions he may have taken. The Divisional Court (Rowlatt and Wright, JJ.) exonerated the landowner from liability, and laid down that the principle of *Rylands* v. *Fletcher* has no application to the case of damage by overhanging trees. A tree is not like an artificial reservoir or a sewage farm. Persons who maintain such luxuries, or necessities, are bound to keep their contents from escaping. But to grow a tree is one of the natural uses of the soil, and it makes no difference whether the tree was planted or was self-sown, or whether it is maintained for ornament, for shelter, or for the sake of the timber. On the question of nuisance the court also reversed the judgment of the county court. An overhanging tree is in the same category as a lamp, sign-board, clock or shop-blind, and is not a nuisance. The right of the public being merely to pass and repass, so long as that right is not interfered with, they cannot complain of what is in the air above or the earth beneath.

What if the tree, before it falls, is dangerous—is it then a nuisance? On this point the Divisional Court laid down that a person is liable for a nuisance on his property (1) if he causes it; (2) if by neglecting some duty he allows it to arise; (3) if, when it has arisen without his own act or default, he omits to remedy it within a reasonable time after he knew or ought to have known of it. To prove the existence of a nuisance is therefore practically the same as proving negligence, and the two will usually be put forward as alternative claims.

If the landowner has employed a tree-felling firm, and the accident happens during their operations, a claim may of course be made against the firm as well as the landowner. Where there is no such third party involved, the sole information as to the condition of the tree may only be obtainable from the landowner's own employees—possibly a matter of some difficulty. Relevant enquiries from other sources would be: Had the local authority ever drawn attention to the state of the tree? Had any supports already been put up, which had become insecure? Had any other trees of the same age in the same plantation shown weakness, e.g., after a storm? The absence of any absolute liability to provide supports is explained by Rowlatt, J., in the above case, p. 338, as follows: "But a branch of a tree is not kept from falling by artificial attachments to be maintained by man, but by the natural processes which develop the tree, and it is only when accident or decay interferes that human intervention is necessary. I see no ground for holding that the owner is to become an insurer of nature, or that default is to be imputed to him until it appears that nature can no longer be relied upon."

Practice Notes.

DIVORCE.

NOTHING is of more vital importance to a solicitor acting for a wife in a divorce suit than obtaining payment from the husband of costs "up to setting down," and security for costs of the hearing. The effect of an omission to do this, if the wife petitioner or respondent is ultimately unsuccessful, is to leave the solicitor with the sole remedy of an action at common law against the husband for "necessaries." If the wife is innocent of adultery, and the petition fails for some other reason, the result may be only extra trouble and inconvenience, but if it transpires that the wife is guilty of adultery the solicitor will not obtain judgment, as happened in *Durnford* v. *Baker*, 1924, 2 K.B. 587; 68 SOL. J. 790. There the wife was petitioner, but ATKIN, L.J., although reserving the point, may be taken to have suggested that a solicitor for a guilty respondent wife might find himself at common law in the same position. Under the divorce practice a respondent wife is allowed costs against her husband, so that she may have the means of defending herself, as also a wife petitioner, guilty herself of adultery, who is asking for the discretion of the court to be exercised in her favour in granting her a decree.

In *Durnford* v. *Baker* a wife had instructed a solicitor, the plaintiff, to institute divorce proceedings against her husband, the defendant. Unknown to the solicitor and to the husband the wife had been living in adultery. Subsequently, the husband discovered this fact, and informed the solicitor, who thereupon did not proceed with the petition, which was eventually dismissed for want of prosecution. The circumstances of the wife's adultery do not appear, so that it is not possible to say whether she might have proceeded with her petition, and asked for the discretion of the court. It may be assumed that the proceedings had not reached the stage at which, in the ordinary course, a solicitor can carry in his bill of costs "up to setting down" for taxation, which is after the registrar's certificate that the pleadings are in order has been given. It is submitted that in that situation the solicitor's only chance of obtaining his costs would have been for him to have taken out a summons before one of the judges of the Divorce Division, and asked for a special order for the wife's costs. Originally, under the ecclesiastical practice, the proctor,

acting for the wife, drew the means of litigation almost from day to day. That must have been on the assumption that the proceedings were properly taken. Then came the stage when costs were no longer taxed as accruing from day to day, but at the end of every term. Under those circumstances the husband was ordered to give security, and the solicitor was considered entitled to his costs up to the amount of the security on the ground that he had been induced to act for the wife in reliance on that security. It is submitted that the plaintiff in *Durnford's Case* would in those days have obtained his costs.

The recent decision of *S.* v. *S. and P.*, 72 SOL. J., p. 31, emphasises the anomalous state of the law. There, a solicitor, representing a wife admitting uncondoned adultery on the pleadings, was held to be secured as to the costs of defending issues alleging adultery with the named co-respondent, whereas, according to *Durnford* v. *Baker*, a solicitor, representing the wife petitioner who has successfully concealed her adultery, notwithstanding reasonable inquiry by him, is not.

Reviews.

The Bell Yard (*being the Journal of The Law Society's School of Law*). No. 1. November, 1927. Edited by R. S. T. CHORLEY, M.A., A. E. OLIVER, and J. O. STRONG. Printed and published by the Solicitors' Law Stationery Society, Limited. 54 pp. Price (to non-members of the School) 2s.

Those responsible for the issue of the first number of the Law Society School's Journal are to be heartily congratulated. An excellent idea has been admirably executed. An educational institution makes real progress only when its members co-operate in a true spirit of loyalty. Among the things which have proved invaluable in the cultivation of such *esprit de corps* among its students are social and athletic activities and the publication of a school magazine. The publication of "The Bell Yard" is, therefore, extremely welcome. It is all the more welcome because of its contents. Among the articles contained in it are a charming review by the late Principal of the School—Professor Jenks—of "The Early Days of the School," an interesting reminder by Mr. Chorley of "A Forgotten Chief Justice," a valuable recipe by "J.A.P." entitled "How to avoid Working," an alarming prophesy by H.H.M., under the heading "Nightmare," and a plaintive account of a "Dog's Life," by "Winkworth Smallpiece." Other articles and contributions reflect the many and varied activities of the school.

The new venture deserves the hearty support of all past and present members of the Law Society School.

Books Received.

The Law of Property Acts. An Epitome of the reported cases for noting up (reprinted from THE SOLICITORS' JOURNAL). Large crown 8vo. 12 pp. 1928. The Solicitors' Journal, 29, Breams-Buildings, E.C.4. 7d. post free.

Whittaker, 1928. JOSEPH WHITTAKER, F.S.A., "containing an account of the Astronomical and other Phenomena and a vast amount of information respecting the Government, Finances, Population, Commerce and General Statistics of the various Nations of the World." Complete Edition. pp. viii and 916. London: 12 Warwick-lane, Paternoster-row, E.C. 6s. net.

Income Tax Reliefs. The Law and Practice regarding reliefs which may be obtained for the purposes of Income Tax and Super-tax. For the use of accountants, lawyers, business men and tax-payers generally. A. W. RAWLINSON, A.C.A., C.A. (late Inland Revenue Dept.). pp. xvi and 406 (with Index). 1928. Sir Isaac Pitman & Sons, Ltd., Parker-street, Kingsway, W.C.2, Bath, Melbourne, Toronto and New York. 20s. net (in Great Britain).

The Incorporated Accountants Journal. Vol. XXXIX, No. 4. January, 1928. The Society of Incorporated Accountants and Auditors, 50 Gresham-street, E.C.2. Annual subscription 12s. 6d., post free.

Correspondence.

Registration of Land Charges in Yorkshire.

Sir,—Permit me heartily to endorse the condemnation made in last week's "Conveyancer's Diary" of the hybrid system of registration at present enforced on us here in Yorkshire.

The new conveyancing, we are constantly being told, aspires to facilitate and cheapen the transfer of land. Why then does it insist in this county, on new complexities of registration and consequent additional expense, in searching the registers? It is unfortunate that the framers of the new conveyancing allowed a tender regard for vested interests—not in land, to covercome what must have been a logical repugnance to the present compromise of schemes of registration. Has it not been well said that "Crabbed age and youth cannot live together"?

Surely it would be better for all concerned if the deeds registries could be scrapped and the centralised system of land charges extended to affect the whole country.

B. A. WORTLEY
(LL.B., Leeds).

Mirfield, Yorks,
11th January.

Obituary.

MR. H. B. SHEPPARD.

A well-known Taunton solicitor, Mr. Herbert Byard Sheppard, died at his residence, "The Orchard," Wilton, in the early hours of Saturday last, after a short illness, at the age of sixty-one. The eldest son of the late Mr. Thomas Byard Winter Sheppard, of Frome, he was educated at Trent College, and served his articles with Messrs. Cruttwell, Daniel and Cruttwell (Frome), and Messrs. Prior, Church & Adams (London).

Admitted in 1889, he subsequently joined the late Mr. T. Meyler, in partnership at Taunton, from whose death in 1897 he carried on the practice.

Mr. Sheppard took an active interest in all that concerned the advancement of Taunton Institutions, and held many public appointments, including that of Steward of the Manors of Taunton, Taunton Dean, Taunton Priory and Fons George, Clerk to the Governors of Huish's and Bishop Fox's Endowed Schools, Steward of Gray's Charity, Secretary to the Joint Higher Education Committee, Registrar of the County Court and District Registrar of the High Court for Bridgwater and Taunton, and Registrar of the Wellington County Court. He also acted as Secretary to the Somerset Law Society, and for the year 1919 was elected its President. He was a Justice of the Peace, and had been a member of the Borough Education Committee since 1911, holding the office of Chairman of the Finance Sub-Committee. Mr. Sheppard was also a member of the Taunton Flower Show Committee, a Trustee of the two lecture trusts founded by Mr. W. Wyndham, a member of the Somerset Archæological and Natural History Society, and a Trustee of the Taunton Town Charity. He had shown great interest in all branches of sport, in his younger days being a keen athlete, and was a member of the Committee of the Pickeridge Golf Club. As Steward of the Manor, he presided at the Annual Meeting of the Court Leet of the Borough for the past thirty years, and in June, 1925, he succeeded the late Mr. Irwin Cox as Lord of the Manor. A strict Churchman, he was for some years churchwarden of St. George's, Wilton, and Hon. Secretary of the Church Council. H.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers are invited and will be answered by some of the most eminent authorities of the day. All questions should be addressed to—The Assistant Editor, "The Solicitors' Journal," 29, Breams Buildings, E.C.4, be typewritten on one side of paper only, and be in triplicate. Each copy to contain the name and address of the subscriber. To meet the conveniences of Subscribers, in matters requiring urgent attention, answers will be forwarded by post if a stamped addressed envelope is enclosed.

Joint Tenancy or Tenancy in Common.

Q. 1103. In 1924 the brothers A and B purchased for £1,000 the equity of redemption of Greenacre, which was subject to mortgage of £400 in favour of X. Of the purchase money, £750 was provided by A and £250 by B, but in the deed the consideration was expressed in the form: "In pursuance of the said agreement and in consideration of the sum of £1,000 now paid by A and B out of moneys belonging to them on a joint account." According to B the intention of the parties was that the survivor should benefit, but beyond B's word there is no evidence as to what the intention was. Recently A died and left a will whereby he devised the whole of his real property ("including my share in Greenacre now in the occupation of Z as yearly tenant") to his sister M. The question which now arises is, who is entitled to A's share?

A. The proposition that, if persons make a purchase and advance the purchase money in unequal shares, there will be no survivorship in equity, even though there may be an absence of words importing a tenancy in common, may be deduced, though perhaps not entirely without difficulty, from *Robinson* v. *Preston*, 1858, 4 K. & J. 505, and *Rigden* v. *Vallier*, 1751, 3 Atk. 731. The difficulty is discussed in *Harrison* v. *Barton*, 1860, 1 J. & H. 287, where parol evidence of surrounding circumstances was admitted to negative survivorship, even though the purchase money was contributed in equal shares. Here directly it could be proved that A provided thrice as much as his brother, the presumption of a tenancy in common would be made, on the authority of the above cases. On the last case possibly the will might be put in evidence, though in itself it would not displace the presumption, see *Moyse* v. *Gyles*, 1780, 2 Vern. 385. Evidence of the distribution of rent might also be useful. The opinion is given on the materials above that M's claim should prevail over B's, and certainly a judge would hold so if the evidence and authorities permitted.

Enfranchised Land—Vested in Mortgagee on 31st December, 1927—Title.

Q. 1104. A and B purchased copyholds of inheritance and took admittance as tenants in common. In the year 1902 they mortgaged the property to C, and C was admitted tenant. B died in December, 1925, leaving his two sons, D and E, executors, who duly proved his will in the following April. Under the provisions of B's will the executors are each beneficially entitled to a one-seventh share of B's undivided moiety.

(1) In whom did the property vest on the 1st January, 1926? The mortgagee died this year leaving F her sole executor, and the executor has called in the money.

(2) By whom and to whom should the receipt be given on repayment of the mortgage?

(3) What customary fines and fees became payable on B's death, and what customary fines and fees are payable upon the discharge of the mortgage?

A. (1) By the L.P.A., 1922, 12th Sched., para. (8) (*f*), added by the L.P. (Am.) A., 1924, 2nd Sched., copyholds which were vested in a mortgagee on 31st December, 1925, vested as freehold on 1st January, 1926, in "the person entitled to the equity of redemption." Either under prov. (iv.) of para. (8), and the 3rd Sched., para. 1 (4), or the L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (4), that person in the circumstances appears to have been the Public Trustee, who could, of course, be divested under para. 1 (4) (iii) by B and any beneficiary under A's will appointing new trustees.

(2) The receipt should be given by F as C's executor to the Public Trustee or other trustees of the enfranchised property, unless the persons who actually pay the money wish otherwise, and have the receipt taken in their names to obtain the advantage of the L.P.A., 1925, s. 115 (2).

(3) This must entirely depend on the custom of the manor. The fines and fees will be as before 1926, saved by the L.P.A., 1922, s. 128 (2) (*b*).

T.A., 1925, s. 25.

Q. 1105. Can two trustees going abroad each appoint the same attorney under s. 25 of the Trustee Act, 1925, there being no third trustee?

A. Given that one trustee of two has exercised the power conferred by s. 25 and appointed an attorney and gone abroad, that attorney, for the time being at least, is the only co-trustee of the other. The answer must therefore be in the negative, unless, of course, the attorney is a trust corporation.

Pre-1926 Joint Tenancy—Absence of Recital of Effect of L.P.A., 1925, in a Post-1925 Conveyance—Effect.

Q. 1106. By a conveyance, dated 1st September, 1925, and made between C. Ltd. (vendors) and J.W.O. and J.O. (purchasers), certain property was conveyed unto the purchasers to hold unto and to the use of the purchasers, their heirs and assigns for ever. This, it is submitted, was a conveyance to joint tenants. On the 24th August, 1926, by a conveyance, made between J.W.O. and J.O. (vendors), of the one part, and K.M.D. (purchaser) of the other part, after reciting that "the vendors were seised in fee simple free from incumbrances of the land and premises thereinafter described" and agreement for sale, the deed continued, that in pursuance of the said agreement and in "consideration of £ paid to the vendors by the purchaser . . . the vendors as beneficial owners thereby conveyed unto the purchaser All that &c." The question arises as to whether the recital of seisin of the vendors should have stated that they were joint tenants, and that by virtue of the L.P.A., 1925, they held the same on trust for sale and for the vendors to have conveyed, in pursuance of such trust for sale as beneficial owners, and whether the omission to do so in any way affects the conveyance of the 24th day of August, 1926. The property is to be mortgaged after completion, and it is desired to avoid any difficulty arising on the title which would affect the loan.

A. The conveyance of 24th August, 1926, would have been more elegantly drafted had the joint tenancy and effect of the L.P. Act been recited. The absence of a recital to the latter effect cannot, however, in any wayaffect the operation of the L.P. Act, nor does it alter the effect of the conveyance. Further, whether J.W.O. and J.O. were, on the 1st January, 1926, entitled as joint tenants or as tenants in common, the land vested in them on the statutory trusts, and so they had the legal estate to convey to the purchaser.

Undivided Shares—Purchase by an Executor of a Beneficiary's Interest.

Q. 1107. By a conveyance dated the 28th January, 1921, freehold property was conveyed to A.M. and E.M. (spinster) in fee simple as tenants in common in equal shares. E.M. died in 1925 and her will was proved by A.M. and L.K., the executors. By her will, E.M. devised and bequeathed all her real and personal estate unto her trustees upon trust for sale

and conversion, with power to postpone sale and conversion, and after payment of her funeral and testamentary expenses and debts to divide the net residue in equal shares between A.M., W.M. and L.K. Arrangements have now been made between A.M., W.M. and L.K. for the one-half of the real estate to which E.M. was entitled at her death to be purchased by A.M., notwithstanding his being one of the executors of the will of the said E.M. What is the best mode of carrying out the transaction ?

A. Immediately before 1st January, 1926, a moiety of the property was vested in A.M. absolutely and the other moiety in A.M. and L.K. as executors of E.M. Hence new trustees to replace the Public Trustee should be appointed so that the legal estate can be conveyed to A.M. : see L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (4). A.M. should not be appointed one of the trustees. The trustees for sale could then sell and convey the property to A.M. and the equities need not in such a case come on the title.

Mortgage Debt vested in Personal Representatives—Assent not Proper Method of Transfer.

Q. 1108. A died in 1926 having by his will given all his real and personal estate (including a mortgage debt of £1,700 secured by legal mortgage on certain freehold property) to B absolutely and having appointed B and C to be the executors thereof. The will was duly proved by B and C, and in 1927 B and C signed an assent under hand only to the vesting of the mortgage debt and the securities in B in the form given on p. 608 of vol. 10 of the 2nd Edition of Enc. of Forms and Precedents. A purchaser from B and her mortgagor has now questioned this assent and contends that the mortgage should have been transferred to B by means of a transfer by deed, citing as authority the statement contained in 2., Wolst. and Cherry, p. 531, that " Mortgages should be transferred in the new form . . . and not by an assent." Can B concur in a conveyance by the mortgagor to release the property from the mortgage debt and to surrender the term in the property conveyed ?

A. It is agreed that the proper form should have been not an assent but the new form exemplified in L.P.A., 1925, 3rd Sched., No. 1 (1 Wolst. & Cherry, p. 531) ; see 3 Prid., 22nd ed., p. 551. In the circumstances either there should be a transfer of the mortgage to B in the proper form (see 1 Prid., p. 551) or B and C might, it seems, concur in the conveyance to the purchaser. The former alternative is advised.

Mortgage—Endorsed Receipt—Execution.

Q. 1109. L.P.A., 1925, s. 115 (1), provides that a receipt endorsed on a mortgage and " executed " by the mortgagee shall operate as a surrender as therein mentioned. Is it necessary that this receipt should be under seal ? Neither the Act nor Form 2 in the 3rd Sched., expressly prescribes this formality, although the word " executed," used in the section, would rather seem to suggest it. In other words, is a receipt under hand only sufficient ?

A. There seems to be nothing requiring the receipt to be under seal ; but the view here taken is that expressed in 2 Prid., 22nd ed., at p. 311 : " It will, save in the case of an unincorporated building society be generally better . . . to take the receipt under seal ; it will make no difference to the amount of stamp duty." See also 70 Sol. J., pp. 397, 439.

JUDGE AND YOUNG OFFENDERS.

Charging the Grand Jury at Newcastle-on-Tyne Quarter Session on Friday, 6th inst, Judge Atherley-Jones, K.C., referred to the state of crime generally and said that individual treatment was wanted for young offenders. The cottage homes system ought to be extended to separate the evilly disposed from the well disposed. It was difficult for persons coming out of prison to get employment. The State ought to be father and mother to young people who had been unfortunate enough to go to prison. For the young there ought to be after care.

REPORTS OF CASES.

Court of Appeal.

No. 1.

Attorney-General *v.* **Metropolitan Water Board.**

15th, 16th and 29th November.

Revenue—Income Tax—Water Authority—Interest on Stock and Debentures—Deduction and Retention of Tax—Whether Interest paid out of Profits not " Brought into Charge "—Liability to Account for Tax—Income Tax Act, 1918 (8 & 9 Geo. 5, c. 40), All Schedules Rules, rr. 19, 21.

A statutory water authority made a loss for one year, and accordingly were not assessed to income tax for the year following. For that second year, however, they made a profit, and paid over £1,600,000 *in interest to stock and debenture-holders, deducting and retaining income tax from those payments.*

Held, that the payments were not made out of profits " brought into charge," within the meaning of r. 19 *of the All Schedules Rules of the Income Tax Act,* 1918, *and therefore the sums deducted and retained must be handed over to the Crown under r.* 21.

Appeal from a decision of Rowlatt, J. By Sched. A, No. III, r. 3, of the Income Tax Act, 1918, the profits of the Metropolitan Water Board are assessable by reference to the profits of the year preceding the year of assessment. The accounts of the Board for the year ending 31st March, 1922, showed a loss, and therefore no assessment was made on the Board for the year ending 5th April, 1923. The accounts for the year ending 31st March, 1923, however, showed a profit of over two millions, out of which the Board paid over £1,600,000 interest on water stock and debentures, deducting and retaining the income tax to the amount of over £400,000. The Crown claimed that amount under r. 21 of the All Schedules Rules, but the Board contended that the interest had in fact been paid out of profits " brought into charge " within the meaning of r. 19 of those rules, and that although the tax assessment for 1922-23 was rightly measured by the profit (or loss) of the preceding year at nil, yet the profits for the year had been " brought into charge," and r. 21 did not operate. Rowlatt, J., held that the interest in question could not be held to have been paid out of nothing. The profits, to the extent of the payments made, had therefore not been " brought into charge," and r. 21 applied. The Board appealed. The court dismissed the appeal.

Lord Hanworth, M.R., in a considered judgment, said that the question to be decided was whether the sum in dispute was included in the words " payable out of profits or gains brought into charge." Did those words mean profits or gains actually brought into charge, or did they mean profits and gains subject to charge which would in due course become factors in the assessment of the liability of the appellants ? By reason of the trading for 1921-22, which resulted in a loss, the appellants paid no tax for the following year. Yet they claimed that the profit of £2,481,085 for the year 1923, out of which the interest referred to was in fact paid, was to be treated as brought into charge for that same year, and so form the fund contemplated in r. 19 as the source out of which the interest of £1,668,351 was paid, and £409,060, part of the latter sum, was retained by the appellants. The sum of £409,060 had been stopped in the appellants' hands because, as Lord Loreburn said in *Attorney-General* v. *London County Council*, 1907, A.C., at p. 133, they were required to be tax-collectors for the Crown. That duty was imposed upon them by s. 24 (3) of the Customs and Inland Revenue Act, 1888, a section now split up into rr. 19 and 21. It was plain from it that the person told to deduct income tax chargeable on the payee must render an account of the deductions. If the

whole of the interest had not been paid out of profits or gains brought into charge, then the account must be of the whole amount deducted. If part only of the interest had not been paid out of profits or gains brought into charge, then the account must cover that part. In his view, there was good ground for the Crown's argument that in r. 19 the words "payable wholly out of profits or gains brought into charge to tax," did not mean payment out of a fund that might be brought into charge, or was, or would be, a factor for the purpose of charge but referred to a fund brought into charge out of which tax was payable and to be paid. Therefore, in an account between the Crown, the appellants, as tax collectors, and the stockholders, it would be seen that the sums deducted from payments to stockholders were passed on to the Crown. The appellants paid income tax, but their assessment was measured by annual value, and that annual value was the profits of the preceding year; nil for 1923. It was true that income tax charged under the respective schedules was the same tax, but the appellants had to justify the retention by them of this sum collected for the Crown by deduction. That could be done where the yearly interest of money was payable wholly out of profits or gains which had been brought into charge to tax. The appellants could not alter their assessment to this tax, which for that year stood at nil, and for the purpose of the rule rely on a charge which did not exist for that year. That reading of the rule seemed to be confirmed by the speech of Lord Haldane in *Sugden* v. *Leeds Corporation*, 57 Sol. J. 425; 1913, A.C., at p. 491. In each case the question is whether the annual payments taxed are actually and properly payable out of the profits. If they are, these profits are treated by the Acts as diminished *pro tanto* in the hands of the owner, and he, having paid once for all on the whole, is thus entitled to retain for his own benefit the amount of tax he deducts from the annual payments before making them, as being tax he has already paid. On this principle it would be no answer to the Crown to say that the profits of this year would in the next year "be understood to be" the annual value on which tax should be paid. The case of *London County Council* v. *Attorney-General*, 49 W.R. 686; 1901, A.C. 26, had a close application to the present appeal. Lord Macnaghten said that the amount deducted must be paid over to the Crown, "unless the payment comes out of income which has already paid the duty," and the word "paid" might, it seemed, be equivalent to "brought into charge" for the payment of duty upon it. Lord Davey, in the same case, said that a mortgagor could not retain against the Crown more income tax than he had paid. The judgment of Mr. Justice Rowlatt in the present case was right, and the appeal must be dismissed.

Sargant and Lawrence, L.JJ., delivered judgment to the same effect.

Counsel: *Sir John Simon*, K.C., *Latter*, K.C., *Cyril King* and *F. Grant*, for appellants; *Sir Douglas Hogg*, K.C. (A.-G.), and *R. P. Hills*, for respondents.

Solicitors: *C. A. Hunt; The Treasury Solicitor.*

[Reported by G. T. Whitfield-Hayes, Esq., Barrister-at-Law.]

NOTES OF CASES.

High Court—King's Bench Division

W. Monks (Inspector of Taxes) *v.* Executors of Sir G. W. Fox (deceased). Rowlatt, J. 25th November.

Revenue—Income Tax—Victory Bonds—Surrendered for Estate Duty—Accrued Interest—Finance Act, 1917, 7 & 8 Geo. 5, c. 31, s. 34, sub-ss. 4, 5—Finance Act, 1918, 8 & 9 Geo. 5, c. 15, s. 42.

A portion of the estate of the late Sir G. W. Fox consisted of £100,000 4 per cent. Victory bonds. In accordance with the terms of s. 34 of the Finance Act, 1917, his executors surrendered these in part payment of estate duty. At the date of the transfer a sum of £800 had accrued due as interest on the bonds, and this £800 was added to the £100,000. The Income Tax Commissioners held that the £800 interest was not subject to income tax in the hands of the executors. This decision was upheld on appeal by the Crown.

Rowlatt, J., said that under the government regulations the stock could be used to pay death duties at the principal of face value and the accrued interest, bringing it into line with what would have happened if the stock had been taken to the market and had realised the money, in which case the accrued interest would have been allowed for in the price obtained. It was now said that the allowance in the value given by the Government for interest was interest taxable. He did not think it was.

Counsel: *The Solicitor-General* (*Sir Thomas Inskip*, K.C.) and *R. P. Hills*, for the Crown (Appellants); *Cyril King*, for the Respondents.

Solicitors: *Solicitor of Inland Revenue; Pritchard, Englefield & Co.*, for *Simpson, North, Harley & Co.*, Liverpool.

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

G. S. Heaslip (Inspector of Taxes) *v.* G. H. Hasemer.

Rowlatt, J. 30th November.

Revenue—Income Tax—Deduction from Assessable Income—Musical Education of Daughter—Private and Individual Tuition—Full-time Study—Teacher's Establishment—Finance Act, 1920 (10 & 11 Geo. 5, c. 18), s. 21, sub-s. (1).

A parent claimed that he was entitled, for the purpose of estimating his taxable income, to a deduction of £36 in respect of his daughter who was receiving private and individual tuition in music from a teacher, at the latter's house, in conjunction with whole-time studies supervised and directed by him. It was held that the teacher's house and the instructional arrangements did not constitute an "educational establishment" within the meaning of s. 21, sub-s. (1), of the Finance Act, 1921, and that in consequence the parent was not entitled to the deduction claimed.

Rowlatt, J., in his judgment, said that, for the requirements of the sub-section to be satisfied, it was essential that full-time instruction must have been received at an educational establishment, and in the sub-section "educational establishment" was used in connection with "university," "college," and "school." In his opinion it was quite clear that the teacher's house was not an educational establishment at which the daughter of the respondent received full-time instruction within the section. She simply took her turn with other pupils to have private lessons from a teacher at his own house. The appeal was allowed, with costs.

Counsel: *The Solicitor-General* (Sir Thomas Inskip, K.C.) and *R. P. Hills*, for the Crown; *Cyril King*, for the respondent.

Solicitors: *Solicitor of Inland Revenue; Godden, Holme and Ward.*

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

Probate Divorce and Admiralty. Division.

S. *v.* S. and P. Lord Merrivale, P. 4th November.

Divorce—Respondent Wife's Costs—Security.

Where a respondent wife discloses a defence "on the merits" she is entitled to an order securing her costs.

Summons adjourned into court. The husband appealed against an order of the registrar directing him to pay his wife her taxed costs up to the time of the setting down of the cause for trial and to give security for the further costs of the hearing. The husband in his petition alleged adultery only with a named man. The wife in her answer denied adultery

with the co-respondent, but admitted the birth of a child. An affidavit as to merits was ordered and duly filed. The co-respondent filed an answer denying adultery. Counsel for the husband submitted that the wife did not disclose a *bona fide* defence and in effect was fighting the case for the benefit of the co-respondent. Counsel for the wife submitted that the wife was entitled as of right to an order for her costs, and that the situation would not have arisen if she had not taken the unusual course of admitting on the pleadings the birth of the child.

Lord MERRIVALE, P.: The authority of this court to order a husband whose grievance is in issue to secure the costs of his wife's proceedings is capable of being oppressively used. I do not say in this case, but in regard to the possible effects of the exercise of that power in this jurisdiction. It appears that the wife does not say that the husband is the father of a child which has been born to her, but she wishes to defend herself against the charge of adultery with the co-respondent. It is one of a class of cases which arise in more complex conditions than those to which the old ecclesiastical jurisdiction was designed to apply. It is a curious case, but there is some prescriptive right to secure to the wife the means of putting forward her defence. I shall order the husband to give sufficient security for such costs as the judge may order at the trial, but I do not require him to make any actual payment into court.

COUNSEL: *F. L. C. Hodson* for the husband; *H. B. D. Grazebrook* for the wife.

SOLICITORS: *Corbin, Greener & Cook*, for *Arthur Neal & Co.*, Sheffield; *Jaques & Co.*, for *E. S. Spencer*, East Retford.

[Reported by J. F. COMPTON MILLER, Esq., Barrister-at-Law.]

Principal and Agent.

Lord Carson presided at a meeting of the Solicitors' Managing Clerks' Association in Middle Temple Hall on Friday, the 16th ult., when Mr. D. N. Pritt, K.C., delivered an address entitled "Points on the Law of Principal and Agent." Mr. Pritt commenced by giving two short descriptions of what agency meant. Agency in one sense was merely the employment of one man by another to make a contract for him. A wider definition was the employment of one man by another to represent him in any capacity, not necessarily merely for the making of a contract. There were various ways in which agency would come about. It could be created by a simple appointment before the agent started acting as the agent. A relation between two parties might create an implied agency. Another method was by ratification, where A had acted as B's agent without previous authority and B accepted him as his agent in regard to the particular act. Another way of bringing about the result of agency was by estoppel. Agency created by estoppel was a very common thing, as, for instance, where C paid bills for D, who had been in the habit of running them up with a tradesman, E, so that E was led to think C would continue to do so, and further debts were incurred by D. In that case C would be liable to E. Then there was agency of necessity, a curious phrase which covered one or two different lines of legal activity not very clearly marked, and the limitations of which had not yet been very well defined by the court. Where a wife had been left by her husband and was not maintained by him, if she could obtain goods on credit he could be made to pay. Where a man found himself in a position of difficulty he often became an agent of necessity. For instance, a captain found himself in some distant port with a damaged ship, or cargo, and he had to do the best he could under the circumstances. The main problem he wanted to discuss that evening arose out of agency not directly connected with a contract made with a third party. This was a trouble that was generally dealt with under the heading of "agent or independent contractor." It arose out of a very convenient rule that the employer of an agent was liable for any act of negligence, even a casual act, committed by the agent he employed. For example, a person employed a boy to carry messages on a bicycle and the boy knocked someone down, causing injury. The question of the employer's liability depended upon the question whether the boy was really an agent, or whether he was an independent contractor. In the case given he would be an agent and the employer would be liable. But if he were an independent contractor, the so-called employer would not be liable, and it would be necessary to try to get damages from the boy. Difficulties arose where the facts were relatively complicated, as, in building operations, when it was difficult to decide whether to go against the builder or, say, the man who was putting in the lifts. The liability could be largely tested by the question whether the principal could say: "I want you to do this job in a particular way and you must do it in that way." In the case of the bicycle the employer might tell the boy he must ride at not more than a certain rate and by a certain route, and he was in that case an agent. If, on the other hand, a man with a few lorries was asked for a price for taking certain things from the London Docks to Crouch End, say, the man became almost certainly an independent contractor, because he merely contracted to carry the goods to Crouch End in his own time and in his own way. If he liked to go round by a longer route and an accident occurred, that would be his affair, and the principal would not be liable. It was often a difficult task for the man who had been injured to make his choice as to which of two or perhaps more people he should proceed against. *Donovan* v. *Laing*, 68 L.T.R. 512; 1893, 1 Q.B. 629, was typical of the kind of case which frequently arose. Donovan worked on a wharf for a firm of wharfingers, who had hired a crane from one Laing, and Laing sent a man to work the crane. Somebody had to tell the crane man when to start and when to stop the crane, and the wharfingers who hired the crane put Donovan on to do this. By the negligence of the crane man the crane was swung round when he had no order from Donovan, and Donovan was injured. An action was brought against Laing, who defended it. It was argued that the people who had the control of the crane were the wharfingers, and that the action should be against them; and the court held that that contention was right. Another type of case which used, before the day of the motor, to be common was that where the hire of horses was concerned. In *Jones* v. *Scullard*, 79 L.T.R. 386; 1898 2 Q.B. 565, defendant's horse ran away and charged into the plaintiff's shop. The first question was whether anyone was negligent. It was decided that the driver of the horse was negligent, and the question then was who was to pay. Scullard owned the brougham and the livery which the driver wore, and the horse, but he was not the employer of the driver in the ordinary sense, as he had an arrangement with the livery stable keeper where he kept the horse for the use of the driver, who looked after the horse. The court applied just the same test and decided that the person who really controlled the man who drove the horse was responsible. In *Bull & Co.* v. *West African Lighterage Company*, 137 L.T.R. 498; 1927, A.C. 686, the plaintiff carried on business in Nigeria. The defendant owned some lighters, but sometimes hired lighters from the plaintiff. The plaintiff supplied a lighter for the use of the defendant, with two "boys" (*anglicè*, black men) to look after it. The boys swam ashore, leaving the barge unattended in the harbour for the night. A swell rose up, breaking the mooring rope, and the lighter went out to sea. The plaintiff argued that he lent the defendant the lighter and the boys, and that as soon as the defendant got them he was the bailee of the lighter, the boys were temporarily the defendant's servants, and he was responsible for the loss of the lighter through the boys' neglect. "No," said the defendant, "they are your boys, put by you to look after the lighter. They are your servants, not mine." The Privy Council accepted the decision of one of the courts below that the boys were in the service of the people who hired the lighter and made them pay its value. All the circumstances must be taken into consideration, such as who hired the man, who paid him, who could dismiss him, who told him what particular job he had to do, and which of those jobs he was doing for A or B, but the thing that counted most was who at the particular moment could tell him to do the particular job in the particular way that he ought. The employer was the man who had the right to say to him "Don't do it that way, do it this way." There were exceptions, or apparent exceptions, to the rule he had laid down, that while an employer was responsible for the negligence of his agents, he was not responsible for the negligence of an independent contractor, exceptions which made a defendant liable for the act of an independent contractor. Such, for instance, as where he employed an independent contractor to do something for him which he had authority by statute to do and which he could not do unless he had a private Act of Parliament to permit him to do it. In *Hole* v. *Sittingbourne Railway*, 6 H. & N. 448, the railway company had statutory power to throw a bridge across a piece of water which was navigable, and they had to construct a swing bridge. They entrusted the work to a contractor, but when it was finished the bridge would not open, and the plaintiff could not get his barges through. He brought an action for damages, and the court held that, though the default was that of the contractor, the company was liable. *Tarry* v. *Ashton*, 1 Q.B.D. 314, was a familiar

illustration of the kind of case which frequently came before the court. Ashton employed a gas engineer to see that a lamp upon his (Ashton's) property was safe. Three months later the lamp fell and injured the plaintiff. The jury found that Ashton was not negligent, but that the engineer was. The question was whether Ashton was liable for the failure to keep the lamp safe. The court said that the duty of keeping the lamp safe was upon Ashton, and that he could not excuse himself by saying that there was no negligence on his part, and that he employed a man to assure its safety ; so Ashton had to pay. Again, if a man set out to do an unlawful act and employed an independent contractor to do it, the man was liable : *Ellis* v. *Sheffield Gas Consumers' Company*, 2 E. & B. 767. The company, who had no right to tear up the highway, employed a contractor to do so. The plaintiff, Ellis, tripped over a heap of stones left by the contractor. The defendants had no right to interfere with the roadway at all, and they were therefore liable for the negligence of anyone they employed. Another exception was the case where someone employed an independent contractor to do a thing which was likely to cause danger, as, for instance, to pull down houses. It was manifest that this was likely to be dangerous to any house which might adjoin it, and that means should be taken by shoring it up to secure its safety. If the contractor who was employed did not take proper precautions, the employer was liable. The lecturer also gave a number of other illustrations.

Lord Carson, responding to the vote of thanks, said it gave him real pleasure to be back amongst the managing clerks, some of whom at all events must have known him at the Bar—he wished he was there now. The law of principal and agent was one of the most intricate of subjects ; there were so many branches of it, and so many complications, that it was very difficult to lay down in a lecture, or in a series of lectures, anything that was really very tangible. He had always believed in getting at the real facts of a case, but the real facts, where the law of principal and agent was concerned, were often very difficult to arrive at. He instanced a case within his personal experience where his chauffeur—a most careful driver—had unfortunately knocked a man down in Regent-street, and he (Lord Carson) had proceeded to get statements from everybody concerned. In his motor were others and not one of their statements tallied with any other, even as to the particular place in Regent-street where the accident occurred, or the direction in which the man knocked down was proceeding. It was quite impossible to arrive at anything definite, and he came to the conclusion that the best course was to compensate the injured man and get rid of the case and so avoid any costs of legal proceedings. It was necessary to get the facts in relation to the particular branch of the law with which it was thought a case was concerned. Sometimes, when these had been ascertained, it was found that the case was one of law and facts. After the evidence was closed in such cases the counsel on both sides began to make submissions to the court and to cite cases as to the difference between contractor and sub-contractor, and whether it was a matter of agent or sub-agent, and who was the person who was liable. The question of agency where husband and wife were concerned was very interesting, more particularly in view of the fact that women had been put upon perfect equality with men in the matter of the vote.

Societies.

Society for Jewish Jurisprudence.

The next ordinary meeting of the English Branch of this society will be held on Tuesday next, the 17th inst., at Lecture Room A, King's Bench-walk, Inner Temple (adjoining the Library), when a paper will be read by Mr. A. S. Diamond, M.A., LL.M., barrister-at-law, on "New Light on Ancient Hebrew Law." The Hon. President, Mr. A. M. Langdon, K.C., will take the chair at 5 o'clock precisely.

The Bar Council.

The Attorney-General will preside at the Annual General Meeting of the Bar, which will be held in the Inner Temple Hall on Wednesday next, the 18th inst.

The General Council's annual statement for 1927, which has been issued, contains references to important questions relating to professional conduct and practice to which the attention of the Council has been directed. Having received a communication on the subject of refresher fees in criminal cases, the Council appointed a special committee to review the general question. In the result the Council passed the following resolutions : (1) Counsel and solicitors may make such arrangements as they think fit with regard to refresher fees in criminal cases either in police courts or at trial. (2) In the absence of arrangements, refresher fees are payable in police courts for the second and each subsequent hearing and at trial at sessions or assizes or the Central Criminal Court, in accordance with the five hours' rule prevailing in the High Court.

With regard to counsel interviewing witnesses, the Council report that they have had under consideration a communication from a barrister asking whether, in the opinion of the Council, the practice of counsel conferring with witnesses of fact, either singly or in the presence of each other, was contrary to the established practice of the profession. The Council passed a resolution expressing the opinion that it is a recognised practice that witnesses (other than the parties and experts or professional witnesses who are instructing counsel) should not be present at consultations or conferences with counsel and that counsel should not interview such witnesses before or during a trial. "It is recognised, however," the resolution adds, "that there must necessarily be exceptions to this practice. It is not possible to formulate the circumstances in which a departure from the practice is permissible. This is a matter that must be left to the judgment and discretion of counsel in each case."

The question of counsel accepting briefs from non-solicitor clerks to local authorities was the subject of a deputation from the Law Society. The Council report that, though the practice is well established and recognised, the instances in which it is adopted are few in number and of small importance, and they feel that to insist in every case on the local authority employing a solicitor, in addition to the clerk, would be imposing an undue burden on small authorities without any corresponding advantage. The Council are of opinion that no sufficient reason has been shown for departing from the conclusion come to on former occasions—namely, that they do not see their way to rule that the practice is contrary to professional etiquette.

In answer to an inquiry from the Bar Mess of a circuit with regard to the minimum fee under Poor Prisoners' Defence Acts, the Council have given the opinion that a clerk of assize has no jurisdiction to decline to give effect to a decision of the justices to allow legal aid and he has no right to allow a fee less than £1 3s. 6d. The inquiry had reference to a case in which the justices granted a prisoner for trial at assizes legal aid. At the trial counsel decided that there was no defence, and the prisoner pleaded guilty. The judge made some strong remarks on legal aid being granted when there was no defence, and the clerk of assize thereupon allowed counsel only 10s. 6d. fee and 2s. 6d. clerk's fee and intimated that in future if, in his view, legal assistance should not have been granted by the justices he would refuse to allow any fee to counsel or solicitor. Counsel remonstrated and refused to take a half-guinea fee.

The Council have had under consideration a communication from the Central Criminal Court Bar Mess inviting an expression of opinion on questions with regard to the acceptance of dock defences. The questions and the Council's answers are appended :—

Does the rule as to acceptance of dock briefs apply at the Central Criminal Court, and, if so, to what extent ?—Yes, to the same extent as in any other court.

Is there any objection to a barrister leaving the court on hearing a prisoner ask for a dock brief ?—No.

Does the barrister commit a breach of etiquette or show any discourtesy by removing his wig under such circumstances ?—Yes.

The Council resolved that a barrister may advise gatuitously or for a fee on a question of Income Tax, provided no dispute has arisen, without infringing the etiquette of the profession, but that he should not appear before the General Commissioners of Income Tax, the Special Commisioners of Income Tax, or a Court of Law in a tax case, without the intervention of a solicitor.

A firm of solicitors asked whether in a civil case in which the writ had been issued and a consultation had taken place (as to advisability of entering appearance) at which consultation a leader and junior advised, the leader was entitled to a brief at the trial. The Council decided that the leader was entitled to a brief at the trial under these circumstances (*vide* Retainer Rule 20, and White Book, 1917, page 2430).

The attention of the Legal Profession is called to the fact that the PHŒNIX ASSURANCE COMPANY Ltd., Phœnix House, King William Street, London, E.C.4 (transacting ALL CLASSES OF INSURANCE BUSINESS), invites proposals for Fidelity Guarantee and Court Bonds, Loans on Reversions and Life Interests. Branch Offices at Byron House, 7, St. James's Street, S.W.1; 187, Fleet Street, E.C.4; 20-22, Lincoln's Inn Fields, W.C.2; and throughout the country.

Legal Notes and News.

Honours and Appointments.

The King has approved the retention of the title of "Honourable" by Mr. Thomas Walter Stringer, barrister-at-law, formerly a judge of the Supreme Court of New Zealand.

The King has approved the appointment of Mr. WILLIAM THOMAS SNELL, Barrister-at-Law, as Recorder of Andover, in succession to Mr. A. J. Mackey, who has resigned the office. Mr. Snell was called to the Bar in 1910 and is Clerk of Indictments on the Western Circuit.

Mr. ARTHUR SMART, assistant solicitor in the office of Mr. A. H. Collingwood, O.B.E., solicitor, Town Clerk and Clerk of the Peace of the County Borough of Carlisle, has been appointed Town Clerk of Bridgwater. Mr. Smart was admitted in 1926.

Mr. W. ARCHER THOMPSON, solicitor, senior partner in the firm of Messrs. Merriman, White & Co., 3 King's Bench Walk, Inner Temple, has been elected Master of The Worshipful Company of Drapers for the current year.

Professional Announcements.

(2s. per line.)

Mr. Sid O. Taylor, O.B.E., solicitor, has removed to more commodious offices at St. Ann's Chambers, 15 St. Ann's-street, Blackpool, where in future his practice will be carried on. The telephone No. (639) and telegraphic address (Taylor, Solicitor, Blackpool) will remain unchanged.

Messrs. Merriman, White & Co. solicitors, 3 King's Bench Walk, Inner Temple, E.C.4, have (as from 1st January) taken into partnership Mr. Knowles Archer Thompson, the son of the senior partner (Mr. W. Archer Thompson). The name of the firm will remain unchanged.

Wills and Bequests.

Mr. Harold Ezekiel Brandon, K.C., of Elsham-road, Kensington, W., and Harcourt-buildings, Temple, E.C., who died on 17th November, aged fifty-seven, left estate of the gross value of £49,106.

Mr. Henry Walter King Rawlins, sixty-six, solicitor, of Belcroft, Parkstone, Dorset (formerly practising at Bournemouth), left estate of the gross value of £24,800.

CIRCUIT JUDGES.

The Winter Assizes commenced on Wednesday, 11th inst. and during Hilary Law Sittings they will take out of town for longer or shorter periods every judge of the King's Bench Division (including the Lord Chief Justice) except two—Mr. Justice Horridge and Mr. Justice Rowlatt—who alone will remain in London during the whole of the circuits.

THE LAW AND RECEIVERS.

The Right Hon. Sir Herbert Nield, P.C., K.C., M.P., speaking at the Middlesex Sessions on Monday, said he hoped to be the instrument, in the House of Commons, of introducing a Bill giving only such persons as were licensed the right to buy jewelled articles, and so he hoped they might be able to stop the receiving of stolen property. The time had come for some alteration in the law on the matter.

LONDON CHAMBER OF COMMERCE.

The Lord Chief Justice will distribute the prizes to the successful students in the commercial education examinations of the London Chamber of Commerce on Friday, 30th March. The Lord Mayor of London will preside.

SESSIONS CHAIRMAN AND JURY.

"I don't think you have done your duty," said Sir Montagu Sharpe, K.C., the chairman of the Middlesex Sessions, on Monday, to a jury who found a man Not Guilty. "Of course, you didn't know this man had spent twenty-five years in penal servitude. I am ashamed of you. I can only regret your decision. I cannot do anything."

NORTH-EASTERN WINTER ASSIZES.

The Commission days for the North-Eastern Circuit Winter Assizes have been fixed as follows:—Newcastle, 13th February; Durham, 21st February; York, 28th February; and Leeds, 5th March. The judges are Mr. Justice Branson and Mr. Justice Finlay. Civil and criminal business and divorce cases will be taken at all places.

MONEYLENDERS' NAMES.

Allowing two appeals under the Moneylenders Act, Mr. A. M. Langdon, the Salford Recorder, has decided that a man can apply for a certificate under the name by which he was generally known, and individually recognised, as apart from a trade name which he does not use in private life. In one case the applicant had departed from his father's name, changing to another name by deed poll, and in the other the applicant had used his adopted name ever since he landed in England thirty years ago.

On behalf of Sidney Solomon Levy, Mr. J. Lustgarten said his client had been in Manchester for thirty years. He was a Levite, and in Russia the name of the firm was Levin. When he came to England thirty years ago he and other members of his family began to call themselves Levy, and had been known by that name ever since. In 1909 he was naturalised in the name of Levy. The object of the Moneylenders Act, counsel submitted, was first to identify the person from whom the money was borrowed, and secondly if a person used a trade name that he should be bound to use that name.

Mr. E. L. Fleming, for the respondents, submitted that the man's real name was Levin, the name which appeared on naturalization papers and he had taken the name of Sidney. Practically the only way a Christian name could be altered in this country was at confirmation.

The Recorder: Canon law cannot override the common law, that a man may change his name to anything he pleases, subject to the provisions of the Business Names Registration Act.

Mr. Fleming said the chief object of the Act was to protect the borrower by letting him know exactly with whom he was dealing. For a long time before the Act was passed certain aliens who brought disrepute on the community had been trading under old-established British names in order to deceive the borrower.

The second appeal was by Aaron Lewis, whose name was formerly Votovski. He was born in Manchester in 1890, and changed his name by deed poll in 1916.

The Recorder said that in the Act there was no reference to baptismal or original names. In the case of Lewis, it would be an absurdity to say his name was Votovski. That was abandoned. Levin had always been recognised in England as Levy, and therefore within the meaning of the statute, just as in fact, his name was Levy.

CENTRAL CRIMINAL COURT.

The January session of the Central Criminal Court was opened by the Lord Mayor at the Sessions House, Old Bailey, on Tuesday. The Recorder of London (Sir Ernest Wild, K.C.), Mr. Alderman Jacobs, Mr. Sheriff H. E. Davenport, Mr. Under-Sheriff C. F. J. Jennings, and Mr. Under-Sheriff H. W. Capper accompanied the Lord Mayor on the Bench at the opening ceremony. It is understood that the Lord Chief Justice will attend the Court on Monday next to begin the trial of cases in the Judge's list.

The Recorder, in charging the Grand Jury, said the calendar contained the names of seventy-four persons, and the charges were of a serious nature. There were two charges of murder, three of attempted murder, one of rape, one of abortion, one of casting corrosive fluid, and five of bigamy. He was sorry to say that there were three charges which, if proved, involved that most contemptible of crimes which could be committed—that was living on the proceeds of prostitution. There was also a serious case of two men who were charged with an offence against the Official Secrets Act, and there was a case in which three persons were charged with fraud in regard to the management of a public company. In reference to the Official Secrets Act case—and the remark applied also to the company case—they would find that the evidence was very lengthy, and that the documents were voluminous.

The Grand Jury at the Central Criminal Court on Tuesday found a true bill in the case of the two men charged with an offence against the Official Secrets Act.

COMPULSORY MARRIAGE.

"If I were dictator of this country every girl should be married at eighteen, and every man at twenty-one—if necessary, by compulsion," said the Right Hon. T. P. O'Connor, M.P., speaking as the guest of the Old Boys of Bradford Grammar School, at Bradford, on the 7th inst. He had been referring to the so-called "flapper vote," in regard to which he said he would be on the side of the "flapper," declaring that the woman of twenty-one had twice the sense of a man of the same age.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

Date.	Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve.	Mr. Justice Romer.
Monday Jan. 16	Mr. Bloxam	Mr. Synge	Mr. Bloxam*	Mr. Hicks Beach
Tuesday .. 17	Jolly	More	More	Bloxam
Wednesday 18	Hicks Beach	Ritchie	*Hicks Beach	More
Thursday . 19	Synge	Bloxam	Bloxam	Hicks Beach
Friday 20	More	Jolly	*More	Bloxam
Saturday .. 21	Ritchie	Hicks Beach	Hicks Beach	More
	Mr. Justice Romer.	Mr. Justice Astbury.	Mr. Justice Tomlin.	Mr. Justice Clauson.
Monday Jan. 16	Mr. More	Mr. Synge	Mr. Jolly	Mr. Ritchie
Tuesday .. 17	*Hicks Beach	*Jolly	*Ritchie	Synge
Wednesday 18	*Bloxam	Ritchie	*Synge	Jolly
Thursday . 19	*More	*Synge	*Jolly	Ritchie
Friday 20	Hicks Beach	Jolly	*Ritchie	Synge
Saturday .. 21	Bloxam	Ritchie	Synge	Jolly

* The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

HILARY SITTINGS, 1928.

COURT OF APPEAL.

IN APPEAL COURT NO. 1.

Wednesday, 11th January—Exparte applications, Original Motions, Interlocutory Appeals from the Chancery and Probate and Divorce Divisions, and if necessary, Appeals re The Workmen's Compensation Act.

Thursday, 12th January—Appeals re The Workmen's Compensation Act, continued.

IN APPEAL COURT NO. 2.

Wednesday, 11th January—Exparte Applications, Original Motions, Revenue Paper—Final List Belfour v Mace and, if necessary, Interlocutory Appeals from the King's Bench Division.

Thursday, 12th January—Any Interlocutory Appeals not disposed of, and, if necessary, Final Appeals.

Friday, 13th January—Final Appeals, including In the Matter of the Petition of Right of May and Butcher ld, appeal of Suppliants from order of Mr. Justice Rowlatt, dated March 9, 1927.

HIGH COURT OF JUSTICE.
CHANCERY DIVISION.

GROUP I.

Before Mr. Justice Eve.
(The Witness List. Part 1.)

Actions, the trial of which cannot reasonably be expected to exceed 10 hours.

Mondays — Companies (Winding up) Business.
Tuesdays, Wednesdays, Thursdays, Fridays — The Witness List. Part 1.

Before Mr. Justice Russell.
(The Non-Witness List.)

Mondays ..Chamber summonses.
Tuesdays ..Motions, short causes, petitions, fur cons, procedure summonses and adjourned summonses.
Wednesdays Adjourned summonses.
Thursdays Adjourned summonses. Lancashire business will be taken on Thursdays, 19th January, 2nd and 16th February, 1st, 15th and 29th March.
Fridays ...Motions and adjourned summonses.

Before Mr. Justice Romer.
(The Witness List. Part 2.)

Mr. Justice Romer will sit daily for the disposal of the List of longer Witness Actions.

GROUP II.

Before Mr. Justice Astbury.
(The Witness List. Part 1.)

Actions, the trial of which cannot reasonably be expected to exceed 10 hours.

Except when otherwise announced in the Daily Cause List.

Mondays, Tuesdays, Wednesdays, Thursdays, Fridays — The Witness List. Part 1.

Bankruptcy Business will be taken on Mondays or Tuesdays during the Sittings as announced in the Daily Cause List.

Before Mr. Justice Tomlin.
(The Witness List. Part 2.)

Mondays ....Sitting as Chairman of The Royal Commission on Awards to Inventors or of The University of London Commissioners.
Tuesdays, Wednesdays, Thursdays, Fridays — The Witness List. Part 2.

Before Mr. Justice Clauson.
(The Non-Witness List.)

Mondays ....Chamber Summonses.
Tuesdays ....Mots, sht caus, pets, procedure summonses, fur cons and adjourned summonses.
Wednesdays Adjourned summonses.
Thursdays ..Adjourned summonses.
Fridays.....Mots and adjourned summonses.

A Divisional Court in Bankruptcy will sit on Tuesdays, the 7th February and 27th March.

THE COURT OF APPEAL.

A List of Appeals for hearing, entered up to Friday, 23rd December, 1927.

FROM THE CHANCERY DIVISION.
(Final List.)
1927.

Sharp & Dohme (Inc) v Boots Pure Drug Co ld (pt hd)
Achilli v Tovell & ors
Wallrock v Clare
Dowsett v Kirkwood
Smith's Potato Crisps ld v Paige's Potato Crisps ld
Re Johnson, dec Re Butlin, dec The Midland Trust ld v Butlin
Re W Smith, dec Smith v Smith

(*In Bankruptcy.*)

Re a Debtor (No 1,064 of 1927) Expte The Debtor v The Petitioning Creditor & The Official Receiver
Re Lansbury, Coleman & Arthur (trading in co-partnership as The Anglo-Russian Three-Ply & Veneer Co) Expte The Trustee of the Property of the Bankrupts v D G Pole
Re a Debtor (No 1,230 of 1927) Expte The Petitioning Creditor v The Debtor

FROM THE COUNTY PALATINE COURT OF LANCASTER.
(Final List.)

Attorney-Gen v The Mayor, &c of Blackpool

FROM THE CHANCERY & PROBATE & DIVORCE DIVISIONS.
(Interlocutory List.)

Re Sheldon, dec Sheldon v Sheldon
Hill v Bellord & Co & ors

FROM THE KING'S BENCH DIVISION.
(For Judgment.)
Re the Indemnity Act, 1920.

The Clan Line Steamers ld v Board of Trade
The Rupai Tea Co ld v Board of Trade

(Final and New Trial List.)

Coleshill v The Lord Mayor, &c of Manchester
In the Matter of the Petition of Right of May & Butcher ld

Re an Arbitration between Patrick & Co (*Clmts*) and Russo-British Grain Export Co ld (*Respts*) (s.o. pending decision in House of Lords)
Messager v British Broadcasting Co ld
Mollo v Horrockses, Crewdson & Co ld
Lynde v Nash
Ellerman Lines ld v Read
Same v Same
Same v Same
Brooks v The British Broadcasting Co ld
The King v General Commissioners of Income Tax (Expte Schlesinger)
W J & F H Bull ld v The Splinterless Glass Co ld
Aktieselskabet Ocean v B Harding & Sons ld
Musmann v London Produce Clearing House ld
Same v Commerz und Privat Bank, A.G.
Rogers v Slator
The Bharat Engineering Co v Smith
Re an Arbitration between Compagnie Continentale d'importation (Hollande) Rotterdam & Union der Sozialistischen Sorvjet Republiken Hundersvertretung in Deutschland Hamberg (Sellers)
Polito v Ross T Smyth & Co ld
W R Fairbrother ld v Appleby & Matty
Broome v Agar
Clegg & Johnson v Doncaster Guardians
Turner v Watts
De Monchy v The Phœnix Insce Co
Brookes v Liffen
Conner v Godleman
A Lewis & Co v Yates
Reckitt v Barnett, Pembroke & Slater ld
The Dee Conservancy Board v McConnell
Same v Same
Skipper v Noble
Callow v Davies
Booth v D & J Welby ld
Grain Union ld v E J Sutton & Co
Re an Arbitration between Cottage Club Estates ld and Woodside Estate (Amersham) ld
Day v London & North Eastern Ry & ors
Same v Same
West v Humphreys
Foster v The London County Council
Dearden v The Liverpool Greyhound Club ld
Gardiner v Heading
Ball v Frost

(Revenue Paper—Final List.)
1925.

Belfour v Mace

1926.

Commrs of Inland Revenue v The Mashonaland Ry Co ld

1927.

Commrs of Inland Revenue v Parsons (restored to List Oct. 20)
Mallet v The Staveley Coal & Iron Co ld
Guardian Assce Co ld v Commrs of Inland Revenue
The General Medical Council v Commrs of Inland Revenue
The English Branch Council of the General Medical Council v Commrs of Inland Revenue
Parker v Chapman
Butler v The Mortgage Company of Egypt ld

(Interlocutory List.)

E C Carpenter ld v Commrs of Inland Revenue
Weiser v Ustav pt hd (s.o.)
Cornelius Bulls Rederi, A.S. v. Barton, Thompson & Co s.o. (Dec. 9)
Crow, Catchpole & Co ld v Burt, Boulton & Haywood ld
Mason v Spalding
Preston v Robinsons (Manchester) ld

FROM THE ADMIRALTY DIVISION.
(Final List.)
With Nautical Assessors.

Budeny—1926—Folio 338 Owners of ss Kut v Owners of ss Budeny

RE THE COMPANIES COMPENSATION ACTS.
(From County Courts.)

Hindmarch v The Carterthorne Colliery Co ld (Durham, Bishop Auckland)
Austin v Partington Steel & Iron Co ld (Lancashire, Salford)
Hucknall v Manchester Corpn (Lancashire, Manchester)
Gill v Perrott (Gloucestershire, Bristol)
Howells v The Great Western Ry Co (Glamorganshire, Swansea)
Lee v S & J Breckman ld (Middlesex, Shoreditch)
King v The British Steel Corpn ld (Swansea) (Glamorganshire)
Nomeracsky v The Canterbury Dressing Works (Middlesex, Shoreditch)
Cory Brothers & Co ld (Glamorganshire, Neath)
Fletcher v Sinclair Iron Co (Shropshire, Wellington)
Standing in the "ABATED" List.

FROM THE PROBATE AND DIVORCE DIVISION.
(Divorce.)

Sneyd v Sneyd (Wilmer Co-Respt.)
Same v Same s.o. generally (July 22)

HIGH COURT OF JUSTICE—CHANCERY DIVISION.

For the purpose of securing the more speedy disposition of business and especially of the shorter Witness Actions, the Judges of the Chancery Division are divided into two groups of three each, and there are three lists, namely:—The Non-Witness List, The Witness List, Part I, into which the shorter Witness Actions will go, and the Witness List, Part II, into which the longer Witness Actions will go.

GROUP I :—Mr. Justice EVE, Mr. Justice RUSSELL and Mr. Justice ROMER.

GROUP II :—Mr. Justice ASTBURY, Mr. Justice TOMLIN and Mr. Justice CLAUSON.

HILARY SITTINGS, 1928.

GROUP I.

Mr. Justice EVE will take Part I of the Witness List. Companies (Winding up) business will be taken on each Monday.

Mr. Justice RUSSELL will take the Non-Witness business as set out in the Hilary Sittings Paper.

Mr. Justice ROMER will take Part II of the Witness List.

GROUP II.

Mr. Justice ASTBURY will take Part I of the Witness List. Bankruptcy business will be taken as announced in the Hilary Sittings Paper.

Mr. Justice TOMLIN will take Part II of the Witness List.

Mr. Justice CLAUSON will take the Non-Witness business as set out in the Hilary Sittings Paper.

GROUP I.

Before Mr. Justice EVE.

(Witness List. Part 1.)

Actions, the trial of which cannot reasonably be expected to exceed 10 hours.

King v Chester & Cole ld
Margot v Williams
Ramuz v Yearsden
Woolscroft v Stoke-on-Trent Corporation
Harris v Goide
Goide b Hayne
Livingston v Aergon Co ld Aergon Co. ld v Livingston
Moss v Milligan
re The Cos (C) Act, 1908 re Lewis & Marks (Diamond Branch) ld
Brown v Ashworth
George v George
Ely Construction Co ld v Patreane
Daw v Parkwood Development Co ld
Gifford v Palser
Barton v Keeble
Mayor, &c of Boro' of Newport v Isle of Wight Farmers' Trading Soc ld
Hoskyns - Abrahall v Paignton U.D.C.
Hough v Whittingham
Tredcroft v Tredcroft
Liddall v Parker
Chamberlain v Denny
Purkis v Roberts
Simplex Pad Co ld v J Cowling and Sons
Hill v Alexander
Williams v Lewis
Bournemouth - Swanage Motor Road & Ferry Co v Harvey and Sons
Societe Franciase Radio-Electrique v West Central Wireless Supplies
Grimwood v Aldenham

COMPANIES (WINDING UP) AND CHANCERY DIVISION.

Companies (Winding Up).

Petitions (to wind up).

Alliance Bank of Simla ld (petn. of L W Warlow-Harry—ordered on May 6, 1924 to s.o. generally)
Robert Young's Construction Co ld (petn of London Asphalte Co ld—s.o. from Jan. 20, 1925 —liberty to apply to restore)
H A P P Tanning Co ld (petn of J B Maclean and ors—ordered June 2, 1926, to s.o. generally.
Trinidad Land & Finance Co ld (petn of A H Clifford & anr, trading as Clifford & Clifford—ordered on June 15, 1926, to s.o. generally)
British Baltic Development Co ld (petn of A Vercoutere—s.o. from Oct 18, 1927 to March 5, 1928)
Velmit ld (petn of W Soward & anr, trading as Metropolitan Canister Co—s.o. from Dec. 6, 1927, to Jan. 16, 1928)
Textosilk ld (petn of A Reinberg—s.o. from Dec 21, 1927 to Jan 16, 1928)
Commercial Coal & Coke Co ld (petn of Evans & Rogers, a firm—s.o. from Dec. 20, 1927 to Jan 16, 1928)
William Cole & Sons (1923) ld (petn of A Bevernage & ors, trading as Bevernage Freres)

(*To be continued.*)

MIDLAND BANK LIMITED.

The directors of the Midland Bank Limited report that, full provision having been made for all bad and doubtful debts, the net profits for the year ended 31st December, 1927, amount to £2,554,650 which, with £825,022 brought forward, makes £3,379,672 for appropriation as follows :—

To interim dividend for the half-year ended 30th June last, paid 15th July, and dividend for the half-year ended 31st December last, payable 1st February next, each at the rate of 18 per cent. per annum less income tax	£1,823,874
To bank premises redemption fund	£500,000
To officers' pension fund	£220,000
leaving to be carried forward a balance of	£835,798

For the year 1926 the dividend was at the same rate, £500,000 was placed to bank premises redemption fund, £200,000 to officers' pension fund and £825,022 was carried forward.

VALUATIONS FOR INSURANCE.—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac a speciality.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4½%. Next London Stock Exchange Settlement Thursday, 26th January, 1928.

	Middle Price 11th Jan.	Interest Yield. £ s. d.	Yield with Redemption. £ s. d.
English Government Securities.			
Consols 4% 1957 or after	85⅝xd	4 12 6	—
Consols 2½%	55½	4 10 0	—
War Loan 5% 1929-47	101⅝	4 18 6	4 18 9
War Loan 4½% 1925-45	96¾	4 13 0	4 16 6
War Loan 4% (Tax free) 1929-42 ..	100¾	3 19 0	3 19 6
Funding 4% Loan 1960-1990	88¾	4 11 6	4 14 0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years ..	94	4 5 6	4 7 0
Conversion 4½% Loan 1940-44.. ..	96⅜	4 13 0	4 16 0
Conversion 3½% Loan 1961	77¾	4 11 6	—
Local Loans 3% Stock 1921 or after ..	64¾	4 13 0	—
Bank Stock	258	4 12 0	—
India 4½% 1950-55	93	4 16 6	4 18 6
India 3½%	72½	4 17 0	—
India 3%	62½	4 16 0	—
Sudan 4½% 1939-73	94xd	4 15 0	4 17 0
Sudan 4% 1974	84	4 15 6	4 17 0
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 19 years)	82	3 15 0	4 12 6
Colonial Securities.			
Canada 3% 1938	85	3 12 0	4 18 0
Cape of Good Hope 4% 1916-36 ..	93	4 6 0	5 0 6
Cape of Good Hope 3½% 1929-49 ..	80	4 7 0	5 0 0
Commonwealth of Australia 5% 1945-75	98	5 2 0	5 2 6
Gold Coast 4½% 1956	93	4 16 6	4 17 6
Jamaica 4½% 1941-71	92½	4 18 0	4 18 6
Natal 4% 1937	93	4 6 0	5 0 0
New South Wales 4½% 1935-45 ..	91	4 19 0	5 7 0
New South Wales 5% 1945-65 ..	98	5 2 0	5 3 6
New Zealand 4½% 1945	97	4 12 6	4 17 6
New Zealand 5% 1946	101¼	4 18 6	4 16 6
Queensland 5% 1940-60	99	5 1 0	5 3 0
South Africa 5% 1945-75	101	4 19 0	5 0 0
South Australia 5% 1945-75	98	5 2 0	5 0 0
Tasmania 5% 1945-75	100xd	4 18 6	5 0 0
Victoria 5% 1945-75	98	5 2 0	5 0 0
West Australia 5% 1945-75	98xd	5 0 0	5 2 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	63	4 15 6	—
Birmingham 5% 1946–56	103	4 17 0	4 17 0
Cardiff 5% 1945–65	102	4 18 6	4 18 0
Croydon 3% 1940–60	68¼	4 8 6	5 0 0
Hull 3½% 1925–55	77xd	4 9 6	5 0 0
Liverpool 3½ Redeemable at option of Corporation	73	4 16 0	5 0 0
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	54	4 12 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	64½	4 13 0	—
Manchester 3% on or after 1941 ..	62xd	4 16 0	—
Metropolitan Water Board 3% 'A' 1963–2003	64	4 13 6	4 17 0
Metropolitan Water Board 3% 'B' 1934–2003	66	4 11 0	4 15 6
Middlesex C. C. 3½% 1927–47	82xd	4 5 6	4 17 0
Newcastle 3½% Irredeemable	72xd	4 17 0	—
Nottingham 3% Irredeemable	63	4 15 6	—
Stockton 5% 1946–66	101xd	4 19 0	4 19 0
Wolverhampton 5% 1946–56	102	4 19 0	5 0 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture ..	84	4 16 0	—
Gt. Western Rly. 5% Rent Charge ..	103	4 17 0	—
Gt. Western Rly. 5% Preference ..	100	5 0 0	—
L. & N. E. Rly. 4% Debenture ..	79½xd	5 1 0	—
L. & N. E. Rly. 4% Guaranteed ..	79	5 0 6	—
L. & N. E. Rly 4% 1st Preference ..	71¼	5 12 0	—
L. Mid. & Scot. Rly. 4% Debenture ..	81xd	4 19 0	—
L. Mid. & Scot. Rly. 4% Guaranteed	81	4 19 0	—
L. Mid. & Scot. Rly. 4% Preference ..	76½	5 5 0	—
Southern Railway 4% Debenture ..	81	4 19 0	—
Southern Railway 5% Guaranteed ..	99	5 1 0	—
Southern Railway 5% Preference ..	94	5 6 0	—

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EDWARD CYRIL OWEN, deceased, of The Baltic and Mercantile Exchange, and Bevis Marks House, Bevis Marks.—Will any person knowing of a Will made by the above deceased, please communicate immediately with Messrs. Nisbet, Drew & Loughborough, Solicitors, 23 Austin Friars, London, E.C.2.

REGINALD JOSEPH MURRAY (deceased), otherwise known as REGINALD JOSEPH MARTINEZ-DE-LAS-RIVAS.—Will any person having in his possession any Wills or draft Wills made in or about the years 1919 and 1920 by the above-named deceased communicate immediately with Fletcher, Jones and Nicholls, Solicitors, 3, Devonshire-square, London, E.C.2?

FREDERICK PROCKTER (discharged from Royal Navy in 1907). Please COMMUNICATE with Messrs. Wigan & Co., Solicitors, Norfolk House, Victoria-embankment, London, when he will hear news to his advantage.

MUSSON. — Information required. — Mrs. Sarah Eliza Musson, Deceased.—Any Solicitor or other person having information as to a Will made by the above-named deceased, who resided at different addresses at Northampton, Buckingham, and Bedford, subsequent to the year 1908, is requested to COMMUNICATE with "G.," Box 38, c/o Solicitors' Journal, 29, Breams-buildings, E.C.4.

ANNIE MATILDA NAYLOR, deceased.—Will any person having in their possession any WILL, STOCK CERTIFICATES or other papers relating to the affairs of the above, late of 77, Geneva-road, Brixton, COMMUNICATE with Shelton & Co., Solicitors, 3, New Court, Lincoln's Inn, London?

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